



7,165,100

A 5610
P 22

$$\begin{array}{r} 107 \overline{) 592} \\ \underline{1070} \\ 1070 \\ \underline{1070} \\ 0 \end{array}$$

119350

11

REV

BELONGING
TO THE
PREPARATIVE MEETING OF FRIENDS,
OF
FLUSHING.

Librarian.

UCSB LIBRARY

X-64444

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

THE

ARGUMENTS OF THE COUNSEL

OF

JOSEPH HENDRICKSON,

IN A CAUSE

DECIDED IN THE COURT OF CHANCERY OF THE STATE
OF NEW JERSEY,

BETWEEN

THOMAS L. SHOTWELL, COMPLAINANT,

AND JOSEPH HENDRICKSON AND STACY DECOW, DEFENDANTS.

BY GEORGE WOOD AND ISAAC H. WILLIAMSON,

Counsellors at Law.

TO WHICH IS APPENDED,

THE DECISION OF THE COURT.

ALSO,

THE OPINION OF THE SUPREME COURT OF THE STATE
OF NEW YORK,

IN A CAUSE IN WHICH JAMES FIELD WAS PLAINTIFF, AND CHARLES
FIELD DEFENDANT.

Philadelphia;

FOR SALE BY URIAH HUNT, No. 19 NORTH THIRD STREET,

AND

MAHLON DAY, AND S. WOOD & SONS, NEW YORK.

.....
1833.

☞ In presenting a second edition of this work to the public, the Editor feels much regret at being unable to gratify public expectation, in giving a more complete view of this interesting question, by the publication of the arguments on the other side, or at least the brilliant effort of the Hon. S. L. SOUTHARD, in behalf of Decow. It is no more than justice to all parties to state, that those who take the opposite side of the question, were not only willing, but anxious to accede to his wishes in this respect; but their counsel not deeming it expedient to do so, the copy could not be procured.

Philad. April 1, 1833.

Entered according to Act of Congress, in the year one thousand eight hundred and thirty-two, by P. J. GRAY, in the Clerk's Office of the District of New Jersey.

INTRODUCTION.

The case which is here reported, has excited a deep and lively interest among an extensive portion of the community, and the Editor has been induced to prepare this publication in order to gratify the curiosity which has been raised. He deems it proper to make a short preliminary statement of the case.

Many years ago a subscription was got up, within the precincts of the Preparative Meeting of the Society of Friends, at Crosswicks, in the state of New Jersey, for the purpose of raising a fund, to establish a school for the education of the children of the indigent members of that meeting. Members subscribed, and a fund was raised, and placed under the control and direction of the preparative meeting, which appointed a treasurer to take charge of the school fund.

The plan originated in the Yearly Meeting of Philadelphia, to which this meeting at Crosswicks was attached, and under their auspices similar funds, for the like purposes, were raised in other preparative meetings belonging to their jurisdiction.

The religious dissension which has arisen in the Society of Friends, and in which Elias Hicks has performed so conspicuous a part, need not here be particularly detailed. After the dispute had raged for some time, the party to which Elias Hicks was attached, usually denom-

inated "Hicksites," and the opposite party, usually called the "Orthodox," became completely established. They were absolutely detached from each other, in most places, so as to form separate meetings, and this was the case at Crosswicks, as well as at all the other meetings under the jurisdiction of the Yearly Meeting of Philadelphia.

Joseph Hendrickson had been appointed the treasurer of this school fund, by the preparative meeting at Crosswicks, before this controversy arose, and in his capacity of treasurer, had loaned out a portion of the money on interest, to Thomas L. Shotwell, who was not a member of the Society of Friends; who gave him the bond and mortgage, upon which this suit is brought. When these parties became completely divided, and formed two separate preparative meetings at Crosswicks, the "Hicksite" preparative meeting appointed Stacy Decow the treasurer of this school fund. Thomas L. Shotwell, who had become attached to that party, refused to recognize Joseph Hendrickson, who adhered to the "Orthodox," as the lawful treasurer any longer. Under the direction of the preparative meeting held by the "Orthodox," and claimed by them to be the true preparative meeting of the Society of Friends, Joseph Hendrickson as their treasurer, demanded of Thomas L. Shotwell the payment of the interest due upon his bond and mortgage, which he refused to pay him, disclaiming his right to receive it.

Upon this refusal, Joseph Hendrickson exhibited a bill of complaint in the usual form, in the Court of Chancery of New Jersey, against Shotwell, to foreclose his bond and mortgage; and in his bill, he set forth the pretension on the part of Shotwell, that Stacy Decow was the lawful treasurer of the school fund. And for the purpose of rebutting this pretension, he set forth particularly the religious controversy in this Society above alluded to; their division into two parties; and alleged that the ground of

this division was on account of religious doctrines. He stated, that there were three prominent points of doctrine on which they differed; that the ancient Society of Friends believed in the divinity of the Saviour, the atonement, and in the inspiration and unerring truth and certainty of the holy Scriptures, which tenets were still held by the "Orthodox" party, and are, and always have been deemed fundamental: but that the "Hicksite" party rejected these doctrines. He further charged, that the "Hicksite" party had seceded from the institutions and government of the church; that during the sitting of the Yearly Meeting of Philadelphia, in 1827, the members composing the "Hicksite" party held private irregular meetings, which resulted in the issuing, by them, of an address directed to their own party, calling a convention for the purpose of framing a yearly meeting of their own; that this convention, composed of their own party, met accordingly, and did form a new yearly meeting, which was first held in Philadelphia, on the second Monday in April, 1828, and has continued since to be held annually, on the same day of the month. He also stated, that the old yearly meeting, at their sitting in 1827, was regularly adjourned to meet the ensuing year, at Philadelphia, on the third Monday in April, agreeably to the established rules of the Society; that they did so meet the following year, and have continued annually to assemble at that time and place ever since. And he charged, that the "Hicksite" preparative meeting at Crosswicks, was detached from the old preparative meeting, and was connected with, and in subordination to, the new "Hicksite" Yearly Meeting of Philadelphia. He alleged that these proceedings amounted to a secession from the government of the church, and that, as such seceders, they were not identified with the old institutions, and could not carry the property with them. Upon the filing of this

bill, Thomas L. Shotwell came into court, and exhibited a bill of interpleader against Joseph Hendrickson and Stacy Decow, the two adverse treasurers, in which he set forth their respective claims and pretensions. Joseph Hendrickson filed an answer, in which he reiterated and insisted upon the various grounds charged in his original bill.

Stacy Decow, in his answer to this bill of interpleader, denied that the three religious doctrines already stated, were fundamental doctrines with the Society of Friends. On the contrary, he said they had no creed, and every individual member might believe, in regard to them, as he pleased. He refused to disclose his religious sentiments or those of his party, alleging that he was not bound to to disclose them before a temporal tribunal. He contended that the religious Society of Friends was a pure democracy, acknowledging no head but Christ, the Great Head of the christian church, and that they did not consider Elias Hicks as their leader. That, believing in the fundamental doctrine of the influence of the divine light upon the soul, they held no inquisition over the consciences of their fellow men. He denied that his party had seceded from the rule and government of the church. He contended that they had merely revived the government, and organized it anew upon its original principles, which had become necessary, in consequence of the erroneous and irregular proceedings of some members of the opposite party, particularly certain elders in Philadelphia.

After the pleadings were completed, the depositions of witnesses were taken at Camden, opposite to the city of Philadelphia, before Jeremiah J. Foster, Esq. an Examiner in the Court of Chancery, which, together with the pleadings at length, and some of the exhibits in the cause, have been published in two volumes.

The Chancellor having been, while at the bar, of coun-

sel in the cause, called into his assistance, agreeably to the practice of the Court, the Chief Justice and one of the Associate Justices of the Supreme Court, before whom the cause was heard.

This volume may with propriety be considered a continuation of the work of J. J. Foster, Esq. and is so intended to be. But inasmuch as many persons may wish to procure this volume, without going to the expense of obtaining the depositions, the Editor has thought it advisable to give this brief account of the pleadings and previous proceedings for the benefit of the reader.

Trenton, August, 1832.

ARGUMENTS, &c.



*Court of Chancery, of New Jersey,
Trenton, January 3, 1832.*

This being the day set down by the Court, for hearing the argument, and their Honors, Chief Justice Ewing, and Associate Justice Drake, of the Supreme Court, being present, the Chancellor having been concerned as counsel in the cause,

GEORGE WOOD, Esq., of counsel for the plaintiff, thus opened the cause :

The debt secured by the bond and mortgage in question, in this cause, is part of a school fund, raised for the education of the children of indigent members of the Preparative Meeting of the society of Friends, or people called Quakers, at Crosswicks, in the county of Burlington.*

The trustees and the treasurer of this school fund are appointed by this preparative meeting. The whole fund, including this mortgage debt, which is a part of the fund, is a mere appendage to this preparative meeting.

Independently of the pleadings and evidence in this cause, it is well known that there is an unfortunate controversy in this religious society. A controversy which

* See the original subscription paper in the Appendix.

has spread discord throughout the whole church. It has not been confined in its effects to mere religious matters, but its baneful influence has infected all the relations of private life. Brother has been arrayed against brother, and husband against wife. The bitterness of this dissension has been rendered doubly severe, from the reflection, that the members of this church have heretofore been distinguished, without seeking distinction of any kind, for their pacific disposition and friendly intercourse. The last property in New Jersey, which any one, a few years ago would have expected to see involved in the heat of litigation, would have been Quaker meeting houses, and their appendages.

The dispute commenced about religious doctrines. This led to a discussion in respect to discipline and government, and has eventuated in an absolute separation of the parties; both sides are respectable in regard to numbers and character.

The religious world, from a very early period, has been divided in sentiment, respecting the divinity of Jesus Christ. Those opposed to it, have appeared at different times and in different forms. Arianism, presented the boldest front of opposition to this doctrine, which commenced with Arius, a presbyter of the church of Alexandria, in the fourth century. Shortly before this, arose the Sabellian controversy. The Socinian is of more modern date; and lastly, we have the Unitarian. They have appeared with different modifications of doctrines, becoming more lax as they recede in point of time. They all agree, however, in one point—in degrading the great Head of the Christian Church, in disrobing Him of his divinity and equality in the Godhead. They agree, also, in rejecting the atonement—they also reduce the scriptures from a work of inspiration, which is infallible, to a mere history, liable to err, and subject to allowances in interpretation, so as to get clear of all those passages in which the divinity of the Saviour is fully and unequivocally developed.

Arianism spread at one time extensively. Modern protestants are generally Trinitarians. Unitarianism has lately gained ground in New England; and within a comparatively short period, it has invaded the peaceful borders of Quakerism.

There are at Crosswicks, two associations, each claiming to be the preparative meeting in question. The one

is attached to the yearly meeting of Philadelphia, which assembles on the third Monday of the fourth month, or April. The other, to the yearly meeting which assembles there on the second Monday of that month. The bill of interpleader was intended to bring before the court, the two persons, Hendrickson and Shotwell, each claiming to be the treasurer of this school. Hendrickson, my client, being appointed by the preparative meeting commonly called "Orthodox," Shotwell, by the preparative meeting commonly called "Hicksite." I use these terms, by which the two parties are generally known, merely for the purpose of designation, and without any view to disparagement.

The question to be considered and decided, is, which is the true preparative meeting to which this property belongs. They cannot both be, for it belongs to one.

It is admitted on all hands, that Joseph Hendrickson, though the obligee at law, holds the bond and mortgage in equity as such treasurer, subject to the trust. Who is truly the treasurer? Which is the true preparative meeting, to which this fund is attached? What preparative meeting is it, whose indigent members are entitled to be educated out of this fund?

We contend that the preparative meeting called "Orthodox," is the true preparative meeting identified with the preparative meeting existing at Crosswicks, at the time this school fund was raised—that the other is not the true preparative meeting, and for two reasons—first, because they have departed from the fundamental doctrines of this religious society; and secondly, because they have departed from the discipline, rule, and government of this church, and have set up for themselves a new and distinct government, separately organized.

Before I proceed to a consideration of the doctrines of this society, allow me to present a few preliminary remarks. We accord freely to the opposite party, the position, that every individual has a right to entertain, and openly to enjoy his own religious opinions; *provided*, in the practical assertion of them, he does not infringe that moral rule, as sanctioned and enforced by the municipal law. By the act of 1796, Paterson's New Jersey laws, 211, it is a misdemeanor to deny the Being or Providence of God—contumelious reproaches of Christ, the Holy Ghost, or the Scriptures, are also punishable. The denial in these

instances, to be punishable, must be of a contumelious character; the statute doctrine of blasphemy being merely declaratory of the common law. Within the wide range allowed by this statute, every man can freely and publicly enjoy his own opinions.

But this liberty is broad and general, not restrictive and exclusive—christianity is deeply imbued with the spirit of genuine rational liberty. Wherever it goes, it carries knowledge, civilization and liberty in its train—it strikes the shackles from the foot of the slave. But the liberty for which I contend, is liberty under the law, not the privilege of holding what may be got in a general scramble; and the law which protects this liberty, sheds its benign influence, not only on *individuals*, but on religious societies.

Christianity is a social system. The christian-individualized, would be a phenomenon. Through the whole course of its history we find it existing in the shape of religious societies, differing from one another; sometimes in essential doctrines, sometimes in forms of government, and sometimes in both. This state of things, is the combined result of two principles—freedom of thought, and social feeling. The movements springing from the application of these apparently antagonist principles, resemble, in some measure, the harmonious operations of physical nature. These various religious societies, though they differ, may live harmoniously together, but the members of the same society, must agree in all important particulars, in order to preserve this concord.

“Where two or three are gathered together in my name, there am I in the midst of them,” may be considered as something more than a mere consolatory declaration. It invokes an injunction, and exhibits at the same time, a prophetic view of the christian state.

While the law protects individuals, it would be short-sighted indeed, not to protect religious societies in their social capacity—in the enjoyment of their rights, and in worshipping in their social meetings without disturbance or conflict, according to the established views and doctrines of their founders. Without such fostering care, christianity, as far as it is dependent on human means, would be starved out of the world; and this protection is beneficial to morality as well as religion.

In what are religious societies to be protected? In the maintenance of their doctrines—of their peculiar views of

the Deity, and of the worship that belongs to Him, and in the organization of their institutions; and as incidental to these, they are entitled to the preservation of the property bestowed upon them, either directly, or through the intervention of trustees, for these great purposes. *How* are they to be protected in these important particulars? By guaranteeing to them the power of purgation, of lopping off dead and useless branches, of clearing out those who depart essentially from the fundamental doctrines and discipline of the society.—There is no other mode of protecting a religious association. To preserve the identity of an institution, you must keep in view the purpose for which it was formed, and its essential modes of action, and you must preserve them. If a set of individuals within its bosom, may divert it to other purposes, its identity is gone—it is no longer protected. Property bestowed in trust for these purposes, is no longer protected in the trust.

The power of bestowing property for such religious purposes, or in other words, of creating such trust, is one of the most interesting rights which man can exercise and enjoy in society. Man, says Edmund Burke, is by nature, a religious animal. His instinct as well as reason, leads him to the perception of Deity, and he becomes awfully impressed with this idea, when bowed down by the hand of affliction, or when contemplating the grand and sublime operations of nature. When so impressed, from whatever cause, he feels impelled to contribute to the propagation of that religious devotion, which lifts up his nature, and prepares him for higher and nobler destinies. The wise and the good feel and highly prize this as a privilege; and every wise and good government will be disposed to protect the enjoyment of it when not carried to superstitious lengths; deprive them of this protection, and you so far deprive them of religious freedom. The religious society is not protected. The individual entertaining his peculiar religious views as a member of that society, is not protected in bestowing his property upon it; an Episcopalian, a Presbyterian, a Quaker, may have his property which he had bestowed in trust for these religious purposes, diverted to other purposes; trustees in such cases, are encouraged to prove faithless to their trust.

The protection of religious freedom, in the individual and social capacity, must be so regulated that they may harmonize; let the individual, having been a member of a

religious society, and having changed his opinions, withdraw and enjoy his own opinions newly formed; but if you allow him to remain a member, he is of course marring the religious doctrines of the society, to which he has become alien in feeling and in sentiment; let him, when he withdraws, carry his own property with him; but if he carries the property of the society along with him, he is encroaching upon their rights.

There is another preliminary view which I wish to present to the consideration of the court. As before remarked, christianity has always been fostered and protected through religious societies. Their property has been generally bestowed upon them by way of donation by individuals, entertaining the same religious views. They have been protected in the enjoyment of their property, as religious societies, under the law of charitable uses, introduced into the civil law by Constantine, when christianity became the religion of the Roman empire.

An opinion has sometimes been entertained, that this doctrine of charitable uses, was introduced into England by the statute of forty-third Elizabeth, but this notion is manifestly erroneous. The protection of property, given for charitable purposes, *piæ causæ*, as they are sometimes termed, was enforced in all countries, whose codes sought their origin in the civil law; and it is impossible to suppose, that these doctrines should not, at an early period, have been introduced into England, where religious subjects were placed under the auspices of the canon law, and enforced in the ecclesiastical, and occasionally in the chancery courts, then in the hands of churchmen. A portion of the effects of the deceased were distributed to these, *piæ causæ*, by the ecclesiastical courts, before the next of kin received any thing. In sixth Reeve's English law, some of these *piæ causæ* are enumerated, p. 80, 81. The statute of superstitious uses, twenty-third Henry VIII. is a sort of mortmain act, and distinguishes between superstitious, and charitable uses, and prohibits grants of land to the former. This whole provision is grounded on the fact, that grants of land to charitable uses, were customary and legitimate. And if so, such grants must have been enforced somewhere, in some courts, and no doubt in the court of chancery, which took cognizance of trusts of all

kinds. The statute of charitable uses, is recited in first Burns' English law, 307, which enumerates different charitable uses, appoints a special commission to superintend them, with an appeal to the chancellor. The act manifestly refers to the previous existence of charitable uses; the remedy in chancery, in cases of breach of the charitable trust, must also have existed previously. This subject is ably investigated by Jones, late chancellor of New York,* where he is brought to the same conclusion, and although his decision was reversed in the court of errors upon other grounds, his opinion upon this matter, remains untouched. Speaking of the principle, that limitations to charitable uses by way of devise, though void at law, would be enforced in equity, he observes, p. 479, that "the same principle must have pervaded and governed every case of charitable use, anterior to the statute of Elizabeth, where the use was held to be valid in equity, when the devise or deed was void at law, from the failure or incapacity of the donee to take, or the want of sufficient certainty in the description of the persons or designation of the objects or purposes of the charity; and indeed it is manifest from other provisions of the statute itself, that the charitable uses which the commissioners were authorised to establish, were understood to be subsisting uses at the time; for the titles of purchasers of the estates affected by them who had purchased or obtained the same for a valuable consideration, and without notice of the trust, or charge, were not to be impeached by the decrees or orders of the commissioners; but the commissioners were nevertheless to direct recompense to be made by those, who being constituted trustees, or having notice of the charitable use, had violated the trust or defrauded by the use, by the sale or other disposition of the estate. Provisions wholly inconsistent with the supposition of a right in the heir at law, but well adapted at the same time, to the protection of bona fide purchasers, and to the relief of *cestui que* trusts, whose interests were betrayed by faithless trustees, or usurped by disappointed heirs." And in page 481 he remarks, "it is admitted that there did exist a general jurisdiction over charities in England, anterior to the statute of Elizabeth, which was exercised by the chancellor; but that jurisdiction, it is

* M'Carter v. Orphan Asylum, 9 Conven.

said, was a branch of the prerogative of the crown, and did not belong to the ordinary powers of the court of chancery; and elementary writers of acknowledged authority, are cited to show that the superintendence of charities, in common with the charge of infants and lunatics, belongs to the king, as *parens patriæ*, and that the jurisdiction of chancery in such cases, does not appertain to it as a court of equity, but as administering the prerogatives and duties of the crown. If it were so, the court of chancery in this state might perhaps claim the jurisdiction, for the very reason, that in England it did belong to the crown, as *parens patriæ*. Charities are classed with infants, as belonging to the same jurisdiction, and as the entire cognizance of the cases of infants, though nominally in the crown, has long been delegated to the chancellor, by whom it is exercised; and the chancellor, as administering the same prerogative of the crown, has also the general superintendence of all the charities in the kingdom, it would seem to follow, that as the general jurisdiction of the cases of infants in this state, is vested exclusively in this court; charities, if they belong to the same jurisdiction, should also be of equitable cognizance, and if so, all the remedy of the English court of chancery, by its ordinary powers, or as administering the prerogative and duties of the crown, could apply, may be administered by this court."

It is probable that the English court of chancery, relying upon some broad expressions in the statute of Elizabeth, carried the law of charities farther than it was before. Thus the court of chancery, since that statute, will enforce a charity where there is no legal estate, and where the trusts are not designated, and will devise a scheme for the distribution of the charity; but in this country, without the aid of statutory provisions, our courts of chancery will carry into effect charities bequeathed to associations of individuals not incorporated, where there are trustees to take the legal estate, and the trust is so designated as that it may be enforced without the contrivance of a new scheme. Of this opinion is chancellor Kent.* In *Inglis v. the Trustees of the Sailor's Snug Harbor*,† it was

* 2 Kent's Com. Lec. 33.

† Peters' U. S. Rep. p. 119, and see the opinion of Justice Story in the Appendix to do., delivered in a former case. Also, *Beatty v. Kurtz*, 2 Peters' U. S. Rep. p. 566.

decided that a devise for the purpose of maintaining and supporting aged, decrepid, and worn out sailors, is a trust which equity will enforce, and they go so far as to say, that if the devise of the legal estate should be inoperative, the trust would fasten upon the land in the hands of the heir. In the Attorney General vs. Pearson, third Merivale, 409, Lord Eldon says, "that a devise (notwithstanding the statute of charitable uses,) for the purpose clearly expressed, of maintaining a society of protestant dissenters, would be enforced." A similiar opinion was given in this court, by chancellor Williamson, in the case of the executors of Ackerman against the legatees. The statute of New Jersey incorporating trustees to hold property in trust for religious societies, recognizes the doctrine, that these religious societies are legitimate *cestui que* trusts in equity, for they are not incorporated by it; the trustees only are incorporated, for the better transmission of the legal estate, of which privilege a religious society may avail themselves if they think proper; but no law was necessary to incorporate the society, to enjoy the equitable beneficial interests to which they are entitled.

We admit, therefore, the equity of the complainants' claim, if they are really and truly the preparative meeting in Crosswicks, for whose use this school fund was created. We do not place ourselves behind the ramparts of the common law, and say that Hendrickson is entitled to recover as the legal obligee of this fund. We admit the trust, and claim only, on the ground that he, and not Decow, is the true and legitimate trustee.

It may be asked, why this effort to show that the claimant in this bill of interpleader, has a right to sue in the character of trustee, and to recover if his claim is supported? I answer, that I feel anxious to place this case upon its true merits, and to leave no other ground upon either side, if possible, upon which a technical decision could be made, aside of the merits of the case. My clients, confident in the lawfulness and righteousness of their cause, wish to have a decision upon the main question, which of these parties forming these separate preparative meetings, is the true society of Friends, and as such, entitled to the property.

There is another preliminary topic, upon which I will trouble the court with a few additional remarks. Though a religious society has an equitable beneficial interest in

property, held in trust for them, yet they take it, not in their individual, but in their social capacity; they take this benefit as *members*, and only so long as they have the qualification of members. Though not a corporation, they partake, as to this purpose, in equity, in some measure, of the corporate character. This doctrine may be applied to all charitable trusts, where bodies of men, and not individuals, are the persons for whose use it is held by the beneficiaries. Thus in the case of the Sailor's Snug Harbor, in order to enjoy the bounty, the persons must be aged or decrepit seamen, and attached to the institution formed under that will for the dispensation of the charity. The moment they cease to answer that character, they cease to be the objects of that bounty. Suppose a large majority of them should be decrepit seamen, and false to the generous character of their profession, they should unanimously pass a resolve that on their recovery, they would appropriate the property which the benevolent founder had devoted to the solace of those, whose best days had been spent in buffeting the waves, and that they would apply these funds to other purposes; would a court of equity recognise their right to do so, under the pretence, that they for the time being, were the objects of that bounty? On such a point no court could hesitate.

I shall now proceed to consider the doctrines of the society of Friends, and to show that those religious opinions set forth by Hendrickson in his answer, and now entertained by those to whom he is attached, are the ancient, established, and fundamental doctrines of this religious sect. They are set out in his answer, and I cannot state them in better language.

“In the first place, although the society of Friends have seldom made use of the word trinity, yet they believe in the existence of the Father, the Son, or Word, and the Holy Spirit. That the Son was God, and became flesh—that there is one God and Father, of whom are all things—that there is one Lord Jesus Christ, by whom all things were made, who was glorified with the Father before the world began, who is God over all, blessed for ever—that there is one Holy Spirit, the promise of the Father and the Son; the leader, and sanctifier and comforter of his people, and that these three are one, the Father, the Word, and the Spirit—that the principal difference between the people called Quakers, and other protestant trinitarian

sects, in regard to the doctrine of the trinity, is, that the latter attach the idea of individual personage to the three, as what they consider a fair logical inference from the doctrines expressly laid down in the Holy Scriptures. The people called Quakers, on the other hand, considering it a mystery beyond finite, human conception, take up the doctrine as expressly laid down in the Scripture, and have not considered themselves as warranted in making deductions, however specious.

“ In the second place, the people called Quakers have always believed in the doctrine of the atonement—that the divine and human nature of Jesus Christ the Saviour were united ; that thus united, he suffered, and that through his sufferings, death and resurrection, he atoned for the sins of men. That the son of God, in the fulness of time, took flesh, became perfect man, according to the flesh, descended and came of the seed of Abraham and David—that being with God from all eternity, being himself God, and also in time partaking of the nature of man, through him is the goodness and love of God conveyed to mankind, and that by him again man receiveth and partaketh of these mercies—that Christ took upon him the seed of Abraham, and his holy body and blood was an offering and a sacrifice for the sins of the whole world.

“ In the third place, the people called Quakers believe that the Scriptures are given by inspiration, and when rightly interpreted are unerring guides ; and to use the language adopted by them, they are able to make wise unto salvation, through faith which is in Jesus Christ. They believe that the spirit still operates upon the souls of men, and when it does really and truly so operate, it furnishes the primary rule of faith. That the Scriptures proceeding from it, must be secondary in reference to this primary source, whence they proceed ; but inasmuch as the dictates of the spirit are always true and uniform, all ideas and views which any person may entertain repugnant to the doctrines of the Scriptures, which are unerring, must proceed from false lights. That such are the doctrines entertained and adopted by the ancient society of Friends, and that the same doctrines are still entertained by the “ Orthodox ” party aforesaid, to which party this defendant belongs. That these doctrines are with the said religious society fundamental, and any individual, entertaining sentiments and opinions contrary to all or any

of the above mentioned doctrines, is held not to be in the same faith with the society of Friends, or people called Quakers, and is treated accordingly.

I am aware, from the course heretofore pursued on the other side, that an objection will be taken to a consideration and decision upon these doctrines by the court. It will be said that this is a matter of conscience, which cannot and ought not to be probed—that the subject eludes the research of a temporal tribunal, and is too difficult to be investigated. I concede, most unequivocally to the opposite party, the right of conscience and religious liberty to its full extent. But when the religious doctrines of any man, or of any set of men, should be ascertained to settle a question of property, to determine a trust, and who are the proper objects of that trust, that matter may be inquired into as well as any other; and there is no more difficulty attending the investigation than in numerous other matters which are examined and discussed in our courts of justice. Warren Hastings was governor general of India. In that capacity, he declared war, negotiated treaties, exacted contributions from tributary princes. He was impeached before the House of Lords, for gross malversation in office, in the government of an empire, through a series of years: an empire much greater than the kingdom of Great Britain, not only his acts, but through them his purposes, his motives, and I may say, his *political doctrines*, were inquired into. Pamphlets, treaties, public documents of every kind were examined—months were devoted to the inquiry. Now this court has the same facilities for investigation, and proceeds very much on the same principles, on which a parliamentary impeachment is conducted.

But let me refer you to other cases: for instance, to the trials of Hardy and Tooke for high treason. They were members of a society formed in England, as was alleged on the part of the government, for treasonable purposes. On the other side, it was said, their object was to obtain by legitimate means, a salutary parliamentary reform. On this inquiry, the constitutions of this and other societies, pamphlets and proclamations, issued by their members, and sometimes directly under their authority, were given in evidence. Day after day, volume after volume was poured in upon the jury—and what did the court do? Did they fold up their arms, and say, why this is too difficult a matter for us, and especially for the jury, who are

to be kept together without meat or drink, to inquire into, and we must shrink from the task? No. They met the difficulties of the case boldly and fairly, and even relaxed from the strictness with which a jury is usually guarded, in order to meet the exigency of the case. A similar course was adopted on the trial of Fries for high treason, in this country. There is a boldness and a depth of investigation, peculiar to the administration of English and of American law, which stops at no obstruction, however great, which is repressed by no difficulty, however appalling.

Before I proceed to the proof of these doctrines, permit me to make a few explanatory remarks upon them. The society of Friends do not use the word *trinity*—nor do they apply the term *person* to the Godhead; because, as they say, they do not find these words in the Scriptures. They are cautious in not using any scholastic phrases to convey ideas, the result of metaphysical reasoning upon subjects beyond their comprehension. And it is somewhat remarkable, that while this society has been charged with attaching too much influence to the operation of the divine light upon the soul, they have, in conveying their religious ideas upon doctrinal points, paid a greater deference to Scriptural language than any other sect. They have been cautious not to be wise beyond what was written. In their catechism, the answers are conveyed in Scriptural language, without addition—taking care to select such passages as convey the idea clearly and beyond doubt. And to show what importance they attach to this Scriptural language, and how they interpret it, they adopt implicitly the text which says, “all Scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness; that the man of God may be perfect, thoroughly furnished unto all good works.”* Thus adopting this text, they show they do not undervalue the Scriptures, or consider them liable to the fallibility of mere human productions. They believe in the unity of the Divine Nature, and also that there are three in the Godhead, but to convey their idea they select those passages of Scripture in which the doctrine is clearly put forth, without drawing any inferences of their own. Whether the three are so distinguished as to convey the idea of individual personage, in the sense in which man under-

* Barclay's Catechism, page 5.

stands it, and can only understand it as that idea comes to him, from observing those rational intelligences that are brought under his cognizance, is a question upon which they do not undertake to decide.

In respect to the atonement, they believe in the great propitiatory sacrifice, and in the union of the divine and human nature of Jesus Christ. They deem the propitiatory sacrifice necessary to salvation, as the only means provided for that purpose. But they do not, as some theologians have done, decide upon its indispensable necessity, so as to exclude the power of the Supreme Being to have provided another mode, if, in his infinite wisdom, he had thought proper so to do. They think it sufficient for them to say, that this is revealed as the only mode actually provided. They adopt implicitly, as before shown, the inspiration of the Scriptures. They believe the Scriptures may be, and often are, misinterpreted, when not read in a right frame of mind, and under the influence of the Holy Spirit—but they do not hold that under this influence they are exalted above the Scriptures, and become wiser than what is there revealed. Their opinions upon the subject of the light within, will be found correctly stated in the second volume of Penn's works, 620, and he there shows the Scriptural source from whence they derive it.

At the time when this society arose, the religious world, with very few exceptions, was trinitarian, and upon this subject, and upon the co-relative truths, the atonement, and the authenticity and inspiration of the Scriptures, they differed from no other trinitarian sect, in any essential matter. Their principal distinctive features resulted from their peculiar opinions in regard to dress and manners, to oaths, to wars, and to a hireling ministry, and for these opinions they suffered a good deal of persecution in those days, when the liberal doctrines of religious toleration were not properly understood or practised upon. But we do not find them persecuted or punished for undervaluing the Scriptures, for rejecting the atonement, or for their opinions upon the Godhead, with but a solitary exception, which I shall by and by consider.

In this inquiry, it should be borne in mind, that we have nothing to do with the abstract truth or accuracy of these doctrines. Such an inquiry belongs properly to no earthly tribunal. The only inquiry is, whether they are, or are not the fundamental doctrines of this ancient society of Friends, and with a view to settle a question of trust.

I think I may venture to say, that these three doctrines in question, are proved to be held by that society as clearly and abundantly, as it would be possible for any sect to prove what its religious doctrines are. We are told on the other side, that these cannot be their doctrines of the trinity, as a society, though individual members may hold to them, because the society has no creed. Passages have been referred to in their writings, in which they object to a creed—and this matter of a creed, in the course of the examination, has been made the subject of much comment, and of some sarcasm. But what is meant by a creed? The modern expositions of religious doctrine, are usually called confessions of faith. The term creed, is more generally applied to those manifestoes of doctrine which were put forth in the earlier stages of christianity, by conventions or general councils, and which were imposed upon the community to be believed under severe penalties, always temporal, and sometimes eternal. It will be found that in this sense, and as opposed to religious toleration, this society has condemned creeds. And surely it will not be pretended that it is necessary for a society to have such a creed before it can be said to entertain any fundamental religious doctrines. But we will not dispute about words, provided the substance be preserved. All I mean to say, is that the doctrines in question are held by this society as fundamental, and I mean to prove it.

They are established, in the first place, by public and authoritative acts and declarations, adopted by this society, and about which there can be no dispute. The discipline of the yearly meeting of Philadelphia, is the first piece of evidence to which I will call your attention—a work acknowledged on all hands, as an authentic source, whose provisions are obligatory upon the members, as a rule of conduct. Haliday Jackson, their witness, admits this. In page twenty-three, of this book you will find the following regulation:—

“If any in membership with us shall blaspheme, or speak profanely of Almighty God, Christ Jesus, or the Holy Spirit, he or she ought early to be tenderly treated with for their instruction, and the conviction of their understanding, that they may experience repentance and forgiveness: but should any, notwithstanding this brotherly labor, persist in their error, or deny the divinity of our Lord and Saviour Jesus Christ, the immediate revelation

of the Holy Spirit, or the authenticity of the Scriptures; as it is manifest they are not one in faith with us, the monthly meeting where the party belongs, having extended due care for the help and benefit of the individual without effect, ought to declare the same, and issue their testimony accordingly."

In Barclay's Catechism, already adverted to, and which is known to be a standard work, adopted by the society, these doctrines are explicitly set forth.* When you find these doctrines are imperatively enjoined in their discipline, under severe sanctions, and put forth in their catechism for the instruction of their youth, as the principles in which they are to be trained up, how can it be pretended that these are not held by the society as their settled religious opinions? A catechism, above all things, would be adopted by a religious society, with the utmost circumspection, and care would be taken that no doctrines should be inculcated which were not held sacred by the society. Such care has been taken in this instance. That book has been penned with the greatest caution. Scriptural language has been used, and the most striking passages of Scripture, such as are mainly relied upon by all sects holding these doctrines, have been culled to convey their ideas. Would this have been done if that work had been intended to be unitarian? Would they not, on the other hand, like all unitarians, have endeavored to explain away these passages?

George Fox is admitted to be the founder of this society—though he is not called the head, inasmuch as they acknowledge no head but the Great Head of the Christian Church. They are adherents to his doctrines. This is matter of history, and has, though a work of supererogation, been proved in the cause. See his letter to the governor of Barbadoes:—

"For the Governor of Barbadoes, with his council and assembly, and all others in power, both civil and military, in this island; from the people called Quakers.

"Whereas, many scandalous lies and slanders have been cast upon us to render us odious; as that "we deny God, Christ Jesus, and the Scriptures of truth," &c. This is to inform you, that all our books and declarations, which for these many years have been published to the world, clearly testify the contrary. Yet, for your satis-

* See Barclay's Catechism, pages 2, 5, 8, 10, 11, 12, 34.

faction we now plainly and sincerely declare, that we own and believe in the only wise, omnipotent, and everlasting God, the creator of all things in heaven and earth, and the preserver of all that he hath made : who is God over all, blessed for ever ; to whom be all honor, glory, dominion, praise and thanksgiving, both now and for evermore ! And we own and believe in Jesus Christ, his beloved and only begotten Son, in whom he is well pleased ; who was conceived by the Holy Ghost, and born of the Virgin Mary ; in whom we have redemption through his blood, even the forgiveness of sins ; who is the express image of the invisible God, the first-born of every creature, by whom were all things created that are in heaven and in earth, visible and invisible ; whether they be thrones, dominions, principalities, or powers ; all things were created by him. And we own and believe that he was made a sacrifice for sin, who knew no sin, neither was guile found in his mouth ; that he was crucified for us in the flesh, without the gates of Jerusalem ; and that he was buried, and rose again on the third day by the power of his Father, for our justification ; and that he ascended up into heaven, and now sitteth at the right hand of God. This Jesus, who was the foundation of the holy prophets and apostles, is our foundation ; and we believe there is no other foundation to be laid but that which is laid, even Christ Jesus : who tasted death for every man, shed his blood for all men, is the propitiation for our sins, and not for ours only, but also for the sins of the whole world ; according as John the Baptist testified of him, when he said “ Behold the Lamb of God, that taketh away the sins of the world,” *John*, i. 29. We believe that he alone is our Redeemer and Saviour, the captain of our salvation, who saves us from sin, as well as from hell, and the wrath to come, and destroys the devil and his works ; he is the seed of the woman that bruises the serpent’s head, to wit, Christ Jesus, the Alpha and Omega, the first and the last. He is (as the Scriptures of truth say of him) our wisdom, righteousness, justification, and redemption ; neither is there salvation in any other, for there is no other name under heaven given among men, whereby we may be saved. He alone, is the shepherd and bishop of our souls : he is our prophet, whom Moses long since testified of, saying, “ a prophet shall the Lord your God raise up unto you of your brethren, like unto me ; him shall ye hear in

all things, whatsoever he shall say unto you: and it shall come to pass, that every soul that will not hear that prophet, shall be destroyed from among the people." *Acts*, ii. 22. 23. He is now come in spirit, "and hath given us an understanding, that we know him that is true." He rules in our hearts by his law of love and life, and makes us free from the law of sin and death. We have no life, but by him: for he is the quickening spirit, the second Adam, the Lord from heaven, by whose blood we are cleansed, and our consciences sprinkled from dead works, to serve the living God. He is our mediator, who makes peace and reconciliation between God offended and us offending; he being the oath of God, the new covenant of light, life, grace, and peace, the author and finisher of our faith. This Lord Jesus Christ, the heavenly man, the Emmanuel, God with us, we all own and believe in; he whom the high-priest raged against, and said, he had spoken blasphemy; whom the priests and elders of the Jews took counsel together against, and put to death; the same whom Judas betrayed for thirty pieces of silver, which the priests gave him as a reward for his treason; who also gave large money to the soldiers, to broach a horrible lie, namely, "that his disciples came and stole him away by night whilst they slept." After he was risen from the dead, the history of the acts of the apostles sets forth how the chief priests and elders persecuted the disciples of this Jesus, for preaching Christ and his resurrection. This, we say, is that Lord Jesus Christ whom we own to be our life and salvation.

"Concerning the holy Scriptures, we believe they were given forth by the holy spirit of God, through the holy men of God, who (as the Scripture itself declares, *2 Pet.* i. 21.) "spoke as they were moved by the Holy Ghost." We believe that they are to be read, believed, and fulfilled (he that fulfils them is Christ;) and they are "profitable for reproof, for correction, and for instruction in righteousness, that the man of God may be perfect, thoroughly furnished unto all good works," *2 Tim.* iii. 19. "and are able to make wise unto salvation, through faith in Christ Jesus." We believe the holy Scriptures are the words of God; for it is said *Exodus*, xx. 1. "God spake all these words, saying," &c. meaning the ten commandments given forth upon Mount Sinai. And in *Rev.* xxii. 18. saith John, "I testify to every man that heareth the words of the pro-

phcey of this book, if any man addeth unto these, and if any man shall take away from the words of the book of this prophecy," (not the word) &c. So in *Luke*, i. 20. "because thou believest not my words." And in *John*, v. 47. xv. 7. xiv. 23. xii. 47. So that we call the holy Scriptures, as Christ, the apostles, and holy men of God called them, viz. the words of God.

"Another slander they have cast upon us, is, "that we teach the negroes to rebel;" a thing we utterly abhor in our hearts, the Lord knows it, who is the searcher of all hearts, and knows all things, and can testify for us, that this is a most abominable untruth. That which we have spoken to them, is to exhort and admonish them to be sober, to fear God, to love their masters and mistresses, to be faithful and diligent in their service and business, and then their masters and overseers would love them and deal kindly and gently with them; also that they should not beat their wives, nor the wives their husbands; neither should the men have many wives; that they should not steal, nor be drunk, nor commit adultery, nor fornication, nor curse, swear, nor lie, nor give bad words to one another, nor to any one else; for there is something in them that tells them they should not practice these nor any other evils. But if they notwithstanding should do them, then we let them know there are but two ways, the one that leads to heaven, where the righteous go; and the other that leads to hell, where the wicked and debauched, whoremongers, adulterers, murderers, and liars go. To the one, the Lord will say, "come ye blessed of my Father, inherit the kingdom prepared for you from the foundation of the world;" to the other, "depart, ye cursed, into everlasting fire, prepared for the devil and his angels;" so the wicked go into "everlasting punishment, but the righteous into life eternal," *Mat.* xxv. Consider, friends, it is no transgression for a master of a family to instruct his family himself, or for others to do it in his behalf; but rather it is a very great duty incumbent upon them. Abraham and Joshua did so: of the first, the Lord said, *Gen.* xviii. 19. "I know that Abraham will command his children, and his household after him; and they shall keep the way of the Lord, to do justice and judgment, that the Lord may bring upon Abraham the things that he hath spoken of him." And the latter said, *Josh.* xxiv. 15. "Choose ye this day whom ye will serve—but as for me and my house, we will

serve the Lord." We declare, that we esteem it a duty incumbent on us to pray with and for, to teach, instruct, and admonish those in and belonging to our families: this being a command of the Lord, disobedience thereunto will provoke his displeasure; as may be seen in *Jer. x. 25*. "Pour out thy fury upon the heathen that know thee not, and upon the families that call not upon thy name." Negroes, tawnies, Indians, make up a very great part of the families in this island; for whom an account will be required by him who comes to judge both quick and dead at the great day of judgment, when every one shall be "rewarded according to the deeds done in the body, whether they be good or whether they be evil:" at that day, we say, of the resurrection both of the good and of the bad, and of the just and the unjust, when "the Lord Jesus shall be revealed from heaven with his mighty angels, with flaming fire, taking vengeance on them that know not God, and obey not the gospel of our Lord Jesus Christ, who shall be punished with everlasting destruction from the presence of the Lord, and from the glory of his power, when he shall come to be glorified in his saints, and admired in all them that believe in that day," *2 Thes. i. 8. &c.* See also, *2 Pet. iii. 3. &c.*"

It would be impossible for man to select language stronger than this, in support of these very doctrines for which we are now contending.

In the confession of faith, subjoined to their catechism, and proved to have been adopted by the yearly meeting, these doctrines are distinctly and unequivocally avowed.

I shall now refer the court to some very important public acts and proceedings of this society, an account of which is to be met with in Sewell's History, without taking time to read all the passages. When George Keith abandoned the faith of this society, he made heavy and severe charges against them, charging them with maintaining the doctrines now ascribed to Elias Hicks. About this time, the Friends came out boldly and denied it, and in a public address, published by them on that occasion, they proclaimed the doctrines for which we are now contending.* Shortly afterwards, they presented a document to the parliament of Great Britain, on finding that these charges of Keith were repeated by Francis Bugg, which is in these words:

* Sewell's History, 499.

I. "Be it known to all, that we sincerely believe and confess, that Jesus of Nazareth, who was born of the Virgin Mary, is the true Messiah, the very Christ, the Son of the living God, to whom all the prophets gave witness; and that we do highly value his death, sufferings, works, offices, and merits, for the redemption of mankind, together with his laws, doctrine, and ministry.

II. "That this very Christ of God, who is the Lamb of God, that takes away the sins of the world, was slain, was dead, and is alive, and lives forever in his divine eternal glory, dominion, and power with the Father.

III. "That the holy Scriptures of the Old and New Testament, are of divine authority, as being given by inspiration of God.

IV. "And that magistracy or civil government, is God's ordinance, the good ends thereof being for the punishment of evil-doers, and praise of them that do well."

A difficulty occurred which prevented them from enjoying the benefits of the toleration act, owing to their refusal to take the oath required. By interceding with the parliament, they at length succeeded in procuring a participation of its benefits, by getting the affirmation substituted in the place of the oath.* Now this toleration act, directly and palpably excluded unitarians from its benefits. The holding of unitarian doctrines was rendered penal by another act of parliament, passed a few years afterwards, and they were not tolerated in England until the year eighteen hundred and thirteen. Yet the Quakers came in and were cherished under the wings of the toleration act. On the promise by queen Anne, on her accession to the throne, to support the toleration act, the yearly meeting presented a thankful address to her majesty. A similar address was sent to George I. upon a like promise by him, on his accession to the throne.

What then, shall we say to these public and official manifestos, thus solemnly put forth, and upon the strength of which, important parliamentary privileges have been obtained and enjoyed? Shall we say they were all delusive? A mere promise to the ear, to catch the favor of the government. Elias Hicks has been compelled to say of the letter of Fox to the governor of Barbadoes, which he found

* Burnett's History of his own Times, 3. 13.

staring in the face of his new doctrines, that it did not contain Fox's real sentiments. But are his adherents prepared to follow him in these charges, and to extend them to the whole society at that early period? Are they prepared to say that their forefathers were timid, false, and hollow hearted? Afraid to hold forth their real sentiments, and brave the danger? That their forefathers, in this country, were equally insincere, by conniving at their falsehood, and continuing in unity with them? Are not these charges, when made by their enemies, belied by the whole tenor of their conduct? and have they not, therefore, when thus made, been repelled by this society? During all this period, they were suffering persecution for refusing to engage in military operations, and to pay tithes. Were they false to some of their principles and true to others? Whatever may be thought of the zeal of the early Friends in many particulars, the charge of insincerity cannot with any propriety be made against them. And we are in possession of the conclusive fact, that they publicly held forth these doctrines, and enjoyed the benefits flowing from their promulgation.

The preaching of ministers, approved and accepted by a religious society, must furnish strong evidence of the doctrines held by it. As a catechism is designed for the instruction of youth, the preacher is provided and designed for the instruction of all, whether old or young. Hence, in this society, great care is bestowed upon the setting apart of experienced, pious, and intelligent persons for the ministry, and the elders are especially required by the discipline, to exercise a vigilance, and to admonish and reprove them for a departure in faith or doctrine. William Jackson, an aged witness, who has travelled over England and this country, and has heard all their ministers who have appeared in his time, before and since the American revolution, tells us that they have uniformly held forth these doctrines, and no witness contradicts him, or pretends that any other doctrines have been put forth in the ministry, except by Elias Hicks and his associates.

If these were not the settled doctrines of the society, how, or why, has it happened that they have been uniformly preached among them? If the contrary doctrines were held in this society indiscriminately, why was it reserved for Elias Hicks and his associates to broach them for the first time? Why has this light beamed from that source alone? This is unaccountable upon their pretensions.

We have produced witness after witness, aged, intelligent, experienced men, of character irreproachable; men whose lives have been devoted to the cause of religion, Samuel Bettle, Thomas Willis, William Jackson and others, whose evidence is before you, and will be carefully inspected; who join in saying, that these are the established doctrines of that society; and that those who hold the contrary doctrine are not in the same faith with the society. They cannot be mistaken. Have they testified to what is not true? Let the negative evidence of the witnesses on the other side answer that question. When asked to disclose their doctrines and the doctrines of this society, in reference to these points, they invariably refuse. And why? Because they say they are not bound to answer. They do not pretend that they are scrupulous against disclosing their religious belief; on the contrary they are eager to disclose it on other points, such as the light within, their scruples about oaths, and other matters. But they refuse to disclose on these points, because as they pretend, they are not *bound* to do so. The plain inference is, that such a disclosure would be fatal to their cause.

I will next refer the court to the standard works of this society, Barclay's Apology, his work on church government, The Confession of Faith, Sewell's History, Fox's Journal, and others, proved to be standard works of the society, and made exhibits in this cause.* I might read for days, from the writings of these authors, in support of these doctrines, but I forbear to proceed any further with it. I will direct the court, however, to Evans' Exposition, as containing numerous other references to the standard works of the society, in support of these doctrines. I advert to it, however, merely as a book of reference, intending in this case, to rely only on evidence which arose and existed prior to this dissention.

But there is one writer belonging to this society, who has been so much commented upon and alluded to in the examination of witnesses in this cause, that it will not do to pass him over without special notice. I have said that amidst all the persecutions inflicted upon the early Friends, they were never punished for holding doctrines repugnant to those now avowed on our side, with but one exception. I allude to the case of William Penn. The character of

* Mr. Wood here read a variety of passages from these different authors.

this man does not require our praise, and would not be affected by our censure. On this side of the Atlantic, he has left the impress of his genius, and of his goodness, which will pass down to the remotest posterity. He is the founder of a state, among the most prominent of our Union, which for all the virtues that impart strength and stability to national character, is surpassed by none. He has formed and given us a Doric pillar to support the capitol of our empire.

But we have now to do with his religious writings. The witnesses tell us, that although Penn has always been highly respected, yet his works are seldom resorted to as standards, in respect to the doctrines of the society. And the reason is obvious. Penn is a controversial writer, and in his arguments, struck out in the heat of controversy, he is sometimes obscure. His object is not so much to establish his own positions, as to overturn those of his adversary. He attacks him with vigor, but is not sufficiently on his guard against misinterpretation. He traces out the reasoning of his opponent, in order to show the absurdity of his results. But those results sometimes have the appearance of being his own independent conclusions. This is particularly the case in his *Sandy Foundation Shaken*, a work which is exclusively controversial, and which has sometimes subjected him to the charge of socinianism, and sometimes of unqualified infidelity, from the want of attending sufficiently to the drift of the author. He had a public religious controversy, according to the fashion of the times, with the Reverend Thomas Vincent, upon three points of divinity. He disputes his adversary's doctrine as to the *three persons* in the trinity, or modes of subsistence. He did not mean to deny the trinity, or the three in the Godhead, so far as it is revealed, according to the opinion of this society, in the Scriptures. In the next place, he denies the position, that there is an absolute disability in the Supreme Being to forgive without a propitiatory sacrifice of the high and exalted character, which he admits was made: he does not deny the fact of such a sacrifice, and of its necessity under the actual state of the christian dispensation. In the last place, he denies the *exclusive* justification of impure persons by an imputative righteousness. The fact that a benefit is imparted to the christian through the righteousness of Christ, under this dispensation, he does not deny; but he contends for the

additional necessity of repentance and good works. In the course of his remarks, to be sure, he does, *in terms*, deny three persons in the Godhead and the propitiatory sacrifice, but in what way, and for what purpose? Not as his own independent conclusions, but as the *results* to which the course of reasoning pursued by his antagonist, to prove his positions, will lead him, when followed out, and with a view to show the fallacy of all human reasoning upon subjects beyond human comprehension. This is evident from the following passage, in page 252: "For it is to be remarked that G. W. (George Whitehead, his coadjutor,) is no otherwise a blasphemer, than by drawing direct consequences from their own principles, and recharging them upon themselves; so that he did not speak *his own apprehensions*, by his comparison, but the sense of their assertion."

On the subject of the trinity, he states the syllogism of his adversary in the following words:

"There are three that bear record in heaven: the Father, the Word, and the Holy Ghost, and these three are one.

"These are either three manifestations; three operations; three subsistences, or three somethings besides subsistences:

"But they are not three manifestations; three operations; three subsistences; nor three any thing else besides subsistences; ergo three subsistences."

He then attempts, in the course of his argument, to show that the conclusion of his opponent is erroneously drawn, because the premises are beyond his comprehension. The subject of this investigation is the Supreme Jehovah. What does man know about the nature and essence of that Being, who is to him incomprehensible? He knows nothing of the essence, and but little as to the modes of operation of those spiritual intelligences which are brought under his observation. He can form no conception of the manner in which even they, could operate upon external objects, when disembodied of the organic living matter which surrounds them. How then can he form an idea of the essence, the operations, or of the mode of subsistence of the Supreme Being. And if he cannot conceive it, how can he undertake to analyze it, or reason upon the analysis. When he looks with the astronomer, at the myriads of worlds which are spread through the heavens, and hence infers the myriads of other worlds in the vast field

of space beyond them, he may form some faint and indistinct conception of that wisdom, and of that power, which sustains this mighty creation ; but what can he know, or presume to know, of the mode of subsistence of such a Being. And yet you, Thomas Vincent, bounded in your views by the petty horizon that surrounds you, a mere ant upon a mole-hill, undertake, in a syllogism ; to limit the possibility of existence of that Being, who is beyond and above all human comprehension. But we will try the strength of your syllogism upon your own principles. You say these three are not three manifestations, in three essences, and therefore there are three modes of subsistence. There cannot be a mode of subsistence, according to any notion, we can form upon the subject, distinct from the essence which does subsist. If, then, there are three modes of subsistence, there must be three essences ; and consequently, upon your own principles, three Gods. But the Scriptures teach us that there is but one God. Such, I take to be the scope and drift of the reasoning of William Penn, in his *Sandy Foundation Shaken*. And he pursues the same course in his argument upon the other points between them. That there might be no misconception of his object, he winds up with saying :

“ Mistake me not—we never have disowned, a Father, Word, and Spirit, which are one ; but mens’ inventions.”

His peculiar mode of reasoning on controversial subjects, is further illustrated in the *Guide Mistaken*, in the second volume of his works. He states, in the form of queries, a number of propositions, which are in themselves directly repugnant to the doctrines of the society to which he was attached, and of all other trinitarian sects. But he concludes with explaining himself fully, that those are not his own opinions, but the conclusions to which he had brought the erroneous reasoning of his opponent.

Penn departed, in one particular, from the views of this society. The same caution which induces them to refrain from adding to Scriptural views, the inferences of human reason upon mysterious subjects, leads them to abstain from all discussion upon such subjects. But Penn was then young. He had been educated in all the liberal acquirements of the age, and he could not resist the temptation of bandying a syllogism with the Reverend Thomas Vincent. It must be admitted that there is an obscurity in some of his controversial writings, which lays him open

occasionally, to misconception. He was misconceived. He was charged with blasphemy. The magistrates, perhaps, were not skilled in syllogistic reasoning, or able to comprehend his object, and he was cast into prison. Thus was imprisoned, on the charge of blasphemy, the man who was destined, at no distant period, to disarm the savage of the wilderness, of his ferocity, and to cause him, with his hatchet buried, to look in admiration upon the calmness and integrity of a christian.

In the second volume of his works, from page 783 to 785, you will find a view of his religious doctrines in full accordance with those ascribed by us to this society.

“ Perversion. The Quakers deny the trinity.

“ Principle. Nothing less : They believe in the holy three, or trinity, of Father, Word, and Spirit, according to Scripture ; and that these three are truly and properly one : of one nature as well as will. But they are very tender of quitting Scripture terms and phrases, for schoolmen’s ; such as distinct and separate persons and subsistences, &c. are ; from whence people are apt to entertain gross ideas and notions of the Father, Son, and Holy Ghost. And they judge, that a curious inquiry into those high and divine relations, and other speculative subjects, though never so great truths in themselves, tend little to godliness, and less to peace ; which should be the chief aim of true christians. And therefore they cannot gratify that curiosity in themselves, or others ; speculative truths being, in their judgment, to be sparingly and tendely declared, and never to be made the measure and condition of christian communion. For besides that Christ Jesus hath taught them other things, the sad consequence, in all times, of superfining upon Scripture texts, do sufficiently caution and forbid them. Men are to apt to let their heads outrun their hearts, and their notion exceed their obedience, and their passion support their conceits ; instead of a daily cross, a constant watch, and an holy practice. The despised Quakers desire this may be their care, and the text their creed in this, as in all other points : preferring self-denial to opinion, and charity to knowledge, according to that great christian doctrine. 1 Cor. xiii.

“ Pervers. The Quakers deny Christ to be God.

“ Princ. A most untrue and unreasonable censure : for their great and characteristic principle being this ; that Christ, as the divine word, lighteth the souls of all men that

come into the world, with a spiritual and saving light according to *John* 1. 9. *ch.* 8. xii. (which nothing but the Creator of souls can do) it does sufficiently show they believe him to be God, for they truly and expressly own him to be so, according to the Scripture, viz: in him was life, and that life the light of man; and he is God over all, blessed for ever.

“*Pervers.* The Quakers deny the human nature of Christ.

“*Princ.* We never taught, said, or held so gross a thing, if by human nature be understood the manhood of Christ Jesus. For as we believe him to be God over all, blessed forever, so we do as truly believe him to be of the seed of Abraham and David after the flesh, and therefore truly and properly man, like us in all things (and once subject to all things for our sakes) sin only excepted.

“*Pervers.* The Quakers expect to be justified and saved by the light within them, and not by the death and sufferings of Christ.

“*Princ.* This is both unfairly and untruly stated and charged upon us. But the various sense of the word justification, obliges me here to distinguish the use of it; for in the natural and proper sense, it plainly implies making men just, that were unjust; godly, that were ungodly; upright that were depraved; as the apostle expresseth himself, *1. Cor.* 6. xi. and such were some of you, but ye are washed, but ye are sanctified, but ye are justified in the name of our Lord Jesus, and by the spirit of our God. In the other use of the word, which some call a law sense, it refers to Christ, as a sacrifice and propitiation for sin, as in *Rom.* 5. ix. Much more then being now justified by his blood, we shall be saved from wrath through him; and *1 John* ii. If any man sin, we have an advocate with the Father, Jesus Christ the righteous; and he is the propitiation for our sins; and not for ours only, but also for the sins of the whole world. Which, though a great truth, and most firmly believed by us; yet no man can be entitled to the benefit thereof, but as they come to believe and repent of the evil of their ways; and then it may be truly said, that God justifieth even the ungodly, and looks upon them through Christ, as if they had never sinned; because their sins are forgiven them for his beloved Son's sake.”

I submit with confidence to this court, that obscure passages, in the heat of argument, of a controversial writer, afterwards fully explained, do not militate against us. I

have adverted to Penn's works, not because we rely upon them, for they are not made an exhibit in the cause, but with a view to show that when rightly understood, they cannot be used as a weapon against us.

My next position is, that these doctrines are, with this society, fundamental. Samuel Bettle, in his deposition, states them to be so. One test of fundamental doctrines is, that a disbelief in them constitutes a ground of disownment. And these are proved to be so. They are so considered by Barclay on church government.* Upon this point the discipline, as I have already shown, is positive.

But these doctrines, wherever they are entertained, must be considered as fundamental. Before you could treat them otherwise, you must change the nature of man, and his principles of action. The idea that a religious society could exist in harmony, or even exist at all, for any length of time, where all sorts of opinions upon such subjects are allowed, is altogether arcadian and visionary. You might as well expect that sincere christians, and mahometans, could harmoniously worship together in a mosque. No good could come from such a state of things, but on the contrary, it would have a most demoralizing tendency. One preacher would rise up, and descant upon the glory and majesty of the Great Head of the christian church, inculcate the deep reverence and devotion that were due to his character. Another would rise, and like Elias Hicks, would endeavour to depreciate him; caution his hearers against relying too much upon him; urge them to endeavor to rise up to an equality with him, and to cast away the Scriptures as mere props, that can aid the christian only in the infancy of his spiritual life. What would be the effect of such contradictory exhibitions? Would it not degrade the whole system? Would it not infuse into the society, if persisted in, a universal scepticism, and spread among the youth a contempt and disregard for all religious sentiments? Or rather, would it not, eventually, as it has done in the present instance, involve the society in confusion and conflict, and lead to a final separation. Such must in all cases be its effects; and while this view of the subject shows that these doctrines are fundamental, wherever they are entertained, it shows at the same time, that this society never could have tolerated the broad latitude

*Page, 53, 59, and the declaration of faith appended to the catechism, p. 11,

of doctrine, upon the utopian principles contended for on the other side. The unity and harmony upon which they delight to expatiate, would have lasted about as long as the "Orthodox" and "Hicksites" continued together, after Elias Hicks let in upon them his flood of new light.

I now propose to show that the "Hicksite" party hold the doctrines ascribed to them in the answer of Joseph Hendrickson. In that answer they are thus stated: "The 'Hicksite' party aforesaid do not adopt and believe in the above mentioned doctrines; but entertain opinions entirely and absolutely repugnant and contrary thereto," (alluding to the three doctrines in question.) In regard to the first religious doctrine above named.

"Although the society of Friends have seldom made use of the word trinity, yet they believe in the existence of the Father, the Son, or Word, and the Holy Spirit. That the Son was God, and became flesh; that there is one God, and Father, of whom are all things; that there is one Lord Jesus Christ, by whom all things were made, who was glorified with the Father before the world began, who is God over all, blessed forever; that there is one Holy Spirit, the promise of the Father and the Son, the leader, and sanctifier, and comforter of his people, and that these three are one, the Father, the Word, and the Spirit; that the principal difference between the people called Quakers, and the other protestant trinitarian sects, in regard to the doctrine of the trinity, is, that the latter attach the idea of individual personage to the three, as what they consider a fair logical inference from the doctrines expressly laid down in the holy Scriptures. The people called Quakers, on the other hand, considering it a mystery, beyond finite, human conception, take up the doctrine as expressly laid down in the Scripture, and have not considered themselves as warranted in making deductions, however specious.

"The people called Quakers have always believed in the doctrine of the atonement; that the divine and human nature of Jesus Christ the Saviour were united; that thus united, he suffered; and that through his sufferings, death and resurrection, he atoned for the sins of men. That the Son of God, in the fulness of time took flesh, became perfect man, according to the flesh, descended and came of the seed of Abraham and David; that being with God from all eternity, being himself God, and also in time partaking

of the nature of man, through him is the goodness and love of God conveyed to mankind, and that by him again man receiveth and partaketh of these mercies; that Christ took upon him the seed of Abraham, and his holy body and blood was an offering and a sacrifice for the sins of the whole world.

“The people called Quakers believe, that the Scriptures are given by inspiration, and when rightly interpreted, are unerring guides; and to use the language adopted by them, they are able to make wise unto salvation, through faith in Jesus Christ. They believe that the spirit still operates upon the souls of men, and when it does really and truly so operate, it furnishes the primary rule of faith. That the Scriptures proceeding from it must be secondary in reference to this primary source, whence they proceed; but inasmuch as the dictates of the spirit are always true and uniform, all ideas and views which any person may entertain repugnant to the doctrines of the Scriptures, which are unerring, must proceed from false lights. That such are the doctrines entertained and adopted by the ancient society of Friends, and that the same doctrines are still entertained by the “Orthodox” party aforesaid, to which party this defendant belongs. That these doctrines are with the said religious society fundamental, and any individual entertaining sentiments and opinions contrary to all or any of the above mentioned doctrines, is held not to be in the same faith with the society of Friends, or people called Quakers, and is treated accordingly.”

If this charge be true, the “Hicksites” unquestionably, are not Quakers in religious belief, whatever they may be in manners and external appearance; they are, on the contrary, the antipodes of them; they are completely unitarian. I do not mean to dispute their legal right to be so; they are, as unitarians, entitled to protection in the enjoyment of their religious belief, publicly and practically, under the constitution of their country. All I mean to contend for, is, that as unitarians, they are not Quakers in doctrine; they are not in law, entitled to take with them, in their new unitarian belief, the property which has been, by donation or otherwise, devoted, in trust, for the society of Friends. To all legal purposes, they would have been just as much entitled to it if they had turned mahometans: I contend that this, as a rule of property, is general and uniform. If a unitarian society, where that mode of wor-

ship is recognised by law, should hold property, a portion of the members becoming trinitarians, could not carry the property with them.

The charge which I have just read from the answer of Hendrickson, was contained in the original bill. It was, of course, stated in the bill of interpleader, and the defendant, Decow, claiming to be treasurer of the school fund, under the "Hicksite" preparative meeting, was called upon to answer this charge, he has not answered it, but has refused to disclose. All the witnesses called on the other side, members of their new yearly meeting, and in the habit of attending their different meetings for worship, and hence, fully acquainted with the religious doctrines they entertain and inculcate, refuse to disclose upon that point. The charge of unitarianism thus solemnly made, is undenied, either by answer or by proof.

Allow me, for a few moments, to consider their excuses for this concealment, and in the next place, its effects upon the evidence in this cause. They excuse themselves for not divulging their doctrines on the ground, that they are *not bound* to spread their spiritual sentiments before a temporal tribunal; that such a tribunal has no cognizance of religious doctrines, and that if compelled to account upon such subjects, there, it amounts to religious persecution. But upon this subject, they appear to me, to be entirely too refined and sublimated. They are for vaulting in the air. They seem to forget that even in religious concerns, while they are preparing for heaven, they are upon the earth and bound to it, by a force of attraction which they cannot resist. I repeat again, that I am an advocate for religious liberty to its broadest extent, except in those instances where bigotry or superstition may encroach upon the safety of government, or the wholesome restraint of municipal law. Even there, I would have a government to yield much to the spirit of religious liberty. It is matter of history, that the early Friends were the pioneers of religious toleration. Even the early reformers, who were anxious for liberty of thought, were for stopping short at the point to which their ideas of reformation in religious doctrine and discipline carried them. Philosophers, in those times, often dreamt of a greater latitude of sentiment and action, but they were only the day-dreams of philosophical speculation. If Sir Thomas More, in his Utopia, was for allowing the utmost breadth of religious freedom, he de-

parted very essentially from his principles, when he was called upon to act. But liberty of conscience, consists in the right of an individual in a society, to enjoy publicly his own religious views and mode of worship, unmolested by temporal power. This was so understood by the early Friends. A religious society must have property, devoted, in trust, to their purposes, and to enjoy true liberty under the law, their property must be protected by the law, not merely as to the legal estate, but also as to the trust. How can the law protect this trust, if a part of the society, changing their doctrines and getting possession of the property in the confusion of religious dissention, can wrap themselves up in all the darkness of the Eleusynian mysteries? To receive the protection of law, they must subject themselves to the inquiry and investigation necessarily incidental to such protection. True liberty does not consist in the power of concealment, in order to hold property devoted in trust to the support of one set of doctrines, and to misapply it to the support of an entirely different set of doctrines. This is *licentiousness*, not *liberty*. It is *wrong*, not *right*. If the object of this inquiry was to punish the "Hicksite" party for their religious opinions, they would then have an excuse for this concealment. But when the object is simply to ascertain which of these two divisions is the true society, when it is manifest that both cannot be: which of these two preparative meetings is the true preparative meeting, in order to settle a mere question of property, it is idle to talk of persecution. It would be disgraceful to the law, to leave such a question, or any other question of property unsettled, and in order to settle it, the court must have the power of inquiry.

Their next pretence for refusing to disclose is, that this society has no fundamental doctrines, and that the inquiry is immaterial, and can have no effect upon the cause. This is not true, and is admitted by themselves not to be true; for they admit the doctrine of the influence of the divine light upon the soul to be fundamental. This society does not exhibit then, even according to their own admissions and views, the strange anomaly of a christian community without any settled religious principles. It is true, that they deny the three doctrines in question to be fundamental; but when we assert it and they deny it, it presents an issue to be inquired into, not to be concealed. Otherwise, how is the point to be settled? It surely cannot be se-

riously pretended that such points, involving important questions of property, should be left unsettled.

Contrast, I beseech you, the conduct of the "Hicksite" party, with the proceedings of the early Friends. These men live in an age and in a country, where religious freedom, and every other sort of freedom is enjoyed. Where they need have no apprehensions from religious persecution. They, on the other hand, lived in an age of persecution, and were actually persecuted for the peculiar religious views which they entertained on some points. Day after day, they saw their companions dragged to the dungeon. What course did they take? Did they study to conceal their doctrines? Did they, tortoise-like, close themselves in the shell? Were they ashamed of the light? No. They came out boldly: avowed their doctrines in the presence of the crowned heads of the day. They presented themselves before the parliament, before committees of the parliament, solemnly and publicly exhibited to them their religious views, and obtained relief and privilege as a trinitarian community of christians, under the toleration laws.

Let us now look at the effect which this studied concealment on the other side ought to have, as negative evidence upon this cause. And here I give them credit for sincerity in the opinion, that they are not *bound* to disclose their religious views on these doctrinal points. I give their counsel credit for *sincerity* in advising them so, though I cannot concur in opinion with them. It will be borne in mind that they do not pretend that their conscience will not allow them to disclose, only that they are not bound to disclose. They do, in fact, disclose some of their doctrines in the answer, and in the evidence. Why then do they not make a fair and full developement upon these three doctrines in question? Manifestly because they did not think it politic to do so. Why do they disclose that the influence of divine illumination is one of their doctrines? Manifestly because they think it politic to go thus far. Their conscience then, seems to be measured by their views of policy.

It is a well settled rule of evidence, that when a matter lies more peculiarly in the knowledge of one party, and he does not explain it, every presumption is raised against him. In Whitney against Sterling and others,* a question arose whether Brown was a partner of the firm sued.

* 14 Johnson's Reports, 215, and see 1 Caines Reports, 185,

General reputation was given in evidence as to the partnership, and as to the members of the firm, and the defendants were noticed to produce the articles of co-partnership, which they declined doing. The court say, "this refusal afforded strong grounds of suspicion, that if produced, they would have shown that all the defendants were partners, and the jury would have been warranted in drawing every reasonable inference against the defendants by reason of such refusal." To apply the principle of this decision to the present case. Here is property attached to a preparative meeting of Friends. They divide on the question of doctrine, and form two preparative meetings. A question arises which is the true one, to which the property ought to be attached. Hendrickson says, his meeting is the true one, because they hold certain religious doctrines, which he proves to be the established doctrines of that religious society, and that the other is not the true one, because they hold doctrines directly repugnant: unitarian doctrines: that they have, in fact, changed from trinitarian to unitarian. Whether they do or do not hold such doctrines: whether such change has, or has not taken place, they must know. They come forward as witnesses, to prove other facts, but do not say what are their sentiments on these points. When we cross-examine them, they refuse to answer. They say they are not bound to answer. This is not true; because witnesses should answer all material questions, which will not subject them to punishment or disgrace: but admit they were not bound to answer these questions. The defendants, in the case cited, were not bound to produce the articles of co-partnership, and in the language of that court, I say, the refusal of the "Hicksite" witnesses to answer, affords strong ground of suspicion, and warrants the court in drawing every reasonable inference against them.

But, fortunately, in this case, we are not dependent upon the opposite party for information as to their doctrines. We have laid before the court, a train of evidence, which shows conclusively that they do hold the doctrines we ascribe to them.

The dispute between the parties, arose, originally about doctrine. Decow, in his answer, admits that there is a difference of doctrine between them. Whitall, in his evidence, states the origin of this dispute. He refers to the letters of Paul and Amicus, in which a pretended Friend,

under cover of vindicating the doctrines of Quakerism, advanced unitarian sentiments. The society of Friends became alarmed, lest the public, under these circumstances, should suppose that they really held such sentiments. A paper was prepared for publication, consisting exclusively of extracts from the writings of ancient Friends,* and setting forth the doctrines which are now maintained by the "Orthodox." The publication of it was opposed: and opposed too, by those who have since seceded. What is their pretence for this opposition? Why, that it was an effort to palm a creed upon their church. Yet it is proved to have been the custom, and is unquestionably true, that this society do, when exposed to the danger of misconstruction, by the public, or under any other circumstances rendering it expedient to do so, publish their sentiments. They might as well pretend to say, that Fox, their founder, was imposing upon them a creed, when he wrote his letter to the governor of Barbadoes: or that the declaration of their faith to the British parliament, was a creed, and exceptionable on that ground. The demon of persecution, which in this country, can exist only in imagination, seems constantly to haunt them. The real secret of their antipathy to this paper, was, not that it contained a creed, but that the ancient doctrines of their writers, from whose works it was extracted, had become unpalatable to them of late.

The publication which that party sent forth from their private meeting, while the yearly meeting of eighteen hundred and twenty-seven was in session, admits that a difference in doctrine led to the controversy. They there tell us, that doctrines believed by one party to be *sound and edifying*, are by the other deemed *unsound and spurious*. Thomas Evans testifies that all their disputes were about religious doctrines.

What were these disputed doctrines? There is no pretence by any body, that any others were disputed than those now in question. Our party come forward openly, and avow their sentiments, in regard to these disputed doctrines. If one party, as they there admit, believes certain doctrines sound and edifying, and the other believes them unsound and spurious, we have a right to infer from their own publication, that they oppose the doctrines in question, unless they show that there were other doctrines in dispute between them, to which they refer.

* Exhibit No. 12, in this cause.

Our witnesses, Parsons, William Jackson, Whitall, Willis, all testify that the "Hicksite" party hold the doctrines now ascribed to them, and no one on their side denies it.

We have proved that their preachers hold forth the doctrines that we ascribe to them. Thomas Evans enumerates some of them: Elias Hicks, Hawkshurst, Mott, Edward Hicks, Wetherald, Comly and Lower, all "Hicksite" preachers, teaching these doctrines, and with acceptance and satisfaction to that party.

We have several volumes of their sermons, which have been made exhibits in the cause. The most prominent of these preachers, whose sermons are contained in them, is Elias Hicks. Speaking of the Scriptures,* he says, "It is the best of all letter that was ever written on earth, and after all, it is nothing but letter. It is that which the *wisdom of man* has devised, and which he can work in, for the sake of his own aggrandizement."

† "Now the *book we read in*, says 'search the Scriptures,' but this is *incorrect*: we must all see it is incorrect," &c. It has been asserted that Elias Hicks never disputed the infallibility and inspiration of the Scriptures. Yet, he here charges them with inaccuracy, and with being devised by man's wisdom. He has denied the divinity of Jesus Christ and his atonement. Look at this passage: ‡ "If we believe that God is equal and righteous in all his ways; that he has made of one blood, all the families that dwell upon the earth, it is impossible that he should be partial, and therefore, he has been as willing to reveal his will to every creature, as he was to our first parents, to Moses and the prophets, to *Jesus Christ* and the apostles. He never can set *any* of these above us; because, if he did, he would be partial. His love is the same for all; and as no man can save his brother, or give a ransom for his soul, therefore the Almighty must be the only deliverer of his people." No man can be so dull of apprehension as to misunderstand this. Elias Hicks is at liberty to believe, and his adherents may believe, that Christ is on a level with Moses and the prophets, and with the first parents of mankind, and that he is not set above us: that not he, but the Almighty alone, is the true deliverer. I come to the bar of this court, not to censure them or their doctrines, but as the advocate of my clients, upon this question of pro-

* Hicks' Sermons, 95.

† Ib. 314.

‡ Ib. 292.

perty, I say, and I trust I have proved, that these are not the doctrines of Quakerism.* Whether these printed books of sermons, have ever been formally adopted by the yearly meeting of the "Hicksites," I cannot pretend to say. But we do not give them in evidence as the productions of private individuals, which might require such adoption, to render them evidence of the general sentiments of the society. They are collections of sermons, of *public preachers*, holding forth these sentiments among them, without censure, and with acceptance. If they had found fault with these sentiments, it would have been the duty of their elders to inquire into the matter. The public and acceptable preaching of their ministers, may surely be taken as fair evidence of the religious sentiments of their people.

But Elias Hicks is too conspicuous a character to be hastily passed over. He is their prime mover. This is notorious. His station as such, is just as well defined, as that of Luther or Calvin, Zwingle or Fox. They say, to be sure, that he is not their head; because they consider Christ their head. But that he is a most able coadjutor, and that he took the lead in broaching those doctrines, in respect to which they admit they differ from their former associates, they cannot pretend to deny. Abraham Lower acknowledges in his evidence, that he was a faithful and accepted preacher. In the early part of his career, as a unitarian preacher, he wrote a letter to his friend Thomas Willis, and made an exhibit in this cause. This letter is written with an ingenuity and management which would have done no discredit to the oratorical skill of Demosthenes or Cicero. He commences by stating, that for fifty years and upwards, he has believed in the miraculous conception. But he had lately been examining the ancient history of the church, and found that many thought otherwise. Before this, he had read the Scriptures often, but under the prejudice of a *traditional belief*, and therefore, never doubted it. But since his late examination of ancient history, where he, no doubt, had dipped into the arian controversy, he read the Scriptures again, and although he found there was considerably *more* scriptural evidence for

* Mr. Wood here read a number of passages from the sermons of Elias and Edward Hicks, and Thomas Wetherald, from the printed volumes called the "Quaker," Hicks' Sermons, and the sermons of Elias and Edward Hicks, to prove the same points.

his being the son of *Joseph* than otherwise; still it has not changed his belief; as tradition is a mighty bulwark. Strange! The less evidence prevails over the greater! And why? The prejudice of tradition is too strong for him. I have heard of men being under the influence of prejudice; but when they discover the prejudice, and see the preponderating evidence on the other side, there is an end of it; they are then freed from their shackles. But it would not do for him to come out boldly as a unitarian—it would have aroused his friend. To continue his influence, he still professes his old doctrines, and he endeavours to instil his principles indirectly, that his friend may adopt them as his own, and as not appearing to have taken them from him. In his letters to Phœbe Willis, and Dr. Shoemaker, he denies the atonement most unequivocally. These letters are important in two points of view. While they develop the principles of Elias Hicks, they show that these are not the principles of Quakerism in which he had been educated.

A slight examination of his sermons, will show you that he is a visionary man. With a mind more active than judicious, he is constantly striking out new conceits. With a temperament more elastic than firm, he embodies these conceits to his own satisfaction, with all the reality of solid doctrine. Christ, in his opinion, as far as we can collect his opinion, was a man inspired with the same light with which all other men are inspired, who may, if they choose, rise to an equality with him. Neither He, nor Moses, nor any of the prophets, was above us. That would have been partial and unjust in his opinion. Christ was a saviour, but he was only to save the Israelites by healing their diseases. His atonement was of the same healing character, but to the Jews only. The Scriptures are useful though incorrect; but they are only useful as props in the infancy of spiritual being, which must soon be brushed away, or they will destroy that spirituality. Among other things, he has made the discovery, that spirit can only beget spirit. He does not tell us, however, in what way he discovered, that spirit could even beget spirit. It does not seem, for a moment, to occur to him, that such subjects are beyond human comprehension and inquiry, and that man becomes presumptuous when he undertakes to be wise in such matters beyond what is revealed. His imagination has only to coin an idea, and his zeal at once

gives it currency. I have no doubt, that in private life, his character was amiable and unexceptionable. But his virtues, like Cæsar's, have been instrumental to a successful innovation. Coming out, heated, from the steam of the arian controversy, he has cast a firebrand into this heretofore peaceful society, and spread a devastation, which a hundred such men could not repair.

Let me not be understood, as meaning to censure Elias Hicks for his religious opinions. His right to hold them, was a matter, which lay between his conscience and his God. It is his deportment towards this society in the practical assertion of those religious opinions, formed by him in his declining years, of which, as the advocate of my clients, it is my duty to complain. The course which Elias Hicks ought to have taken, was a very obvious one; the road he had to travel, was direct and plain before him. When he adopted and undertook to preach those new doctrines, which he thus shadowed forth in his epistles to his friends, and which, in those epistles, he distinctly admits, are in violation of the principles of Quakerism, and the traditions in which he had been educated, he ought to have come out from the bosom of that society. He might then have openly avowed his doctrines, and made proselytes to his new system—the desire to do which, is so natural to the mind of man. If, by pursuing this open and manly course, he had gathered around him a new sect, it would have been fair and lawful, and no man would have had a right to complain, how much soever his early associates, who should still adhere to the traditions in which they had been educated, might have lamented his course. He would then have enjoyed full freedom of thought and action, without encroaching upon the just rights of a religious society, whose principles he had abandoned. But whenever a member of such a society changes his religious opinions, and still artfully endeavours to continue in it, for the purpose of more effectually making converts to his new doctrines, the error of his course will be shown in the demoralizing consequences flowing from it. What subterfuges and evasions is he obliged to resort to! What shifts and expedients! Sometimes boldly advancing his views among those who have become prepared to receive them. Sometimes denouncing them and broaching the old doctrines in which he had been educated. Sometimes explaining them away, or endeavouring to reconcile con-

traditions!! Detraction and discord are next witnessed. The old become disgusted with the exhibition: the young ridicule the whole as the offspring of hypocrisy, artifice, and self-interest: a prostration of morality and religion follows in the train. In religious matters, as in every thing else, licentiousness, which is nothing else than a spirit of encroachment under the specious name of liberty, is prejudicial to the rights and interests of mankind.

Having finished last evening what I had to say upon the subject of the departure by the "Hicksites" from the fundamental religious doctrines of the society of Friends, I shall now proceed to show that they have seceded from the rule and government of the church.

They charge upon our party, a violation of the discipline in commencing this suit. It is in evidence that Thomas L. Shotwell, the defendant to our bill, was not a member of the society at the time of the secession. If he has since the secession been admitted into their church, we have not in thus instituting the suit violated the principles of this society, because as we say they are not, as unitarians, in the same faith with the society of Friends. There was no other mode of getting redress. Having withdrawn themselves from the jurisdiction of the regular yearly meeting of Philadelphia, and all the subordinate meetings of discipline, it was vain to seek redress there against Shotwell, for he of course would not submit to their authority. Could he expect us to follow him into their new and irregular meetings? meetings originating, as they admit, in a revolution, and which we do not recognize? Their complaints then are founded on principles of most convenient application, for themselves, inasmuch as they would close the door against all redress.

There are some other pretensions set up on the other side, incidental to this question of secession.

They tell us that there is no head to this church upon earth—no subordination—no control of one meeting over another—that each preparative meeting may act for itself, without responsibility to the others, or to any superior meeting. Such a state of things is designated under the captivating name of a pure democracy. They figure to themselves a golden age of religious liberty.

I see nothing of democracy in this. Democracy admits of regular organization, of a due subordination of parts to the whole. It admits of authority to govern, founded in the good of the whole. It admits of subjection, provided

it be subjection to the law and wholesome discipline of society. But the pretensions set up on the other side, are of an entirely different character. They pretend that any preparative meeting with a bare majority, told by the head, composed of the young, the thoughtless, and inexperienced, whose only claims to religious or even moral consideration, may be founded on birth-right, are at liberty at any time to set up for themselves, dissolve all connection with the yearly meeting, and carry the property along with them. It might as well be said, that a county could at any moment detach itself from the state. This I consider not democracy, but rank jacobinism. If Quakers were to act on such principles, they would be the sansculottes of Christianity.

Having been informed that the Quakers have no fixed religious principles, we are told in the next place, that they have no subordination or settled rules of government, and that the whole body may at any time, legitimately crumble into its original *moleculæ*.

But we have clearly shown in this case, that the seeds of discord, are not thus sown in the institutions of this society. On the contrary, they have a system of law and subordination, and a regular gradation of authority. This is so stated in the answer of Hendrickson, and is proved by his witnesses. They testify to a power in the higher meetings to lay down the lower meetings. The accountability of the lower to the higher meetings, is provided for in the book of discipline. Joseph Whitall in his deposition, cites passages from the English Discipline of similar import. John Gummere states various instances where meetings had been thus laid down by the Burlington Quarterly Meeting, and Abraham Lower, their witness, admits this subordination and their subjection to the rules of their discipline enacted in the yearly meeting.

There is then a due subordination and subjection to rule, in this society. The highest tribunal is the yearly meeting, which exercises a general supervisory control over the whole, completely analogous to the controlling and superintending power of the general synods of the Dutch Reformed Churches, and the general assembly of the Presbyterian Church.

The opposite party further pretend that they are justified in the course they have taken, on account of the arbitrary conduct of the orthodox, upon the right of revolu-

tion. Their grievances resemble in their opinion, those of the patriots of our great revolution. They are the whigs of Quakerism. This is a most extraordinary ground for individuals to take, who live under a government of laws, which is able and willing to protect them if they are aggrieved.

But these complaints are unfounded in fact. None existed until these false doctrines were broached. They commenced with the preparation of the paper which they have called a creed, which I have already considered and which they could seriously object to, only on the ground that it opposed the unitarian doctrines of Amicus, doctrines which were put forth about the time that Elias Hicks began to shake off the tradition in which he had been brought up, the mighty bulwark, as he terms it, and commenced his new career as a unitarian preacher. Their next complaint of arbitrary conduct is levelled against the elders in Philadelphia. Here again we trace the source of this irritation to the new doctrines. Before this, all was peace and harmony. But Elias Hicks was spreading his new unitarian lights among the churches of Philadelphia. The elders felt it their duty to interpose. If false doctrines are disseminated, will it be pretended that they are to lie idle, and not endeavour to arrest them? The elders have a special superintendence over their meetings. Will it be pretended, that clothed as they are with this superintending power, that standing upon the watch towers to give alarm, when there is cause of alarm, they ought to connive at the corruption of their churches by the promulgation of unsound doctrines? Suppose a preacher should go about among them, and deny the fundamental doctrine of the influence of the divine light upon the soul, should this be acquiesced in? It is the same in effect when any other fundamental doctrine is denied.

Their next complaint is on the ground that committees were appointed to go down among the churches and endeavour to stem the current of these new doctrines. Halliday Jackson himself admits the practice of appointing such committees, when there is a serious departure in doctrine or discipline which may call for it, but he thinks it was not justifiable in this instance, because there were parties in the church. Now I submit to the court, that I have already shown that false doctrines were afloat, in regard to Quakerism, upon points radical and fundamental, and if

so, the appointment of these committees was perfectly justifiable, nay farther, it was absolutely incumbent upon them to make the appointment.

Their only remaining topic of complaint relates to the choice of a clerk, at the yearly meeting of eighteen hundred and twenty-seven. Their candidate for the clerkship on that occasion was John Comly, a man who had been busy for months before, holding private meetings, with the express view of preparing the minds of all who were on their side for a dissolution of the society. Among others, Halliday Jackson is compelled to admit this, and his excuse for this conduct on the part of his friend, is founded upon this right of revolution. With a candidate of such pretensions and with such views they came forward, and they certainly could not be surprized that the friends of this religious institution, the adherents to the faith of their fathers, who had been stemming the torrent of innovation, should endeavour still to resist its progress and prevent it from overwhelming them.

It is proved by Samuel Bettle that the old clerk acts, according to their established usage, until a new one is appointed. No election in this case was made; the meeting could not agree in the choice of a clerk. The representatives had deliberated upon the subject, and no agreement could be made. What then was to be done? If they could not agree in the choice of a new clerk, all that remained was to acquiesce and submit to the continuance of the old one until a new clerk should be appointed.

But a serious objection is here interposed on the part of the "Hicksites." They say they had a majority in their favour. This, however, does not appear. The votes were not counted, and it is all mere conjecture.

But however that may be, it is, I think, well settled, that this society in its proceedings, does not vote or decide by majorities. It is so alleged by Hendrickson in his answer, and his witnesses prove it. Charles Stokes, their own witness, in his deposition gives a very clear and full view of this subject, and refers you to Barclay, who states the practice of the society. The sense of the meeting is gathered by the clerk, of course a weighty and responsible officer; and in doing so, no doubt, he attaches importance to numerical strength, but it is not the only, nor the principal criterion. The history of Quakerism may be studied in its details with advantage. This society has existed for

ages, has transacted business of every kind, settled the disputes and controversies of its own members, without suffering them to resort to courts of justice, yet in all its deliberations, religious and secular, no decision has ever been made by taking a vote or by counting the members. Their decisions are made in unity; but by this they do not understand unanimity or majority. They designate their decision generally by calling it *the prevailing sense* of the meeting. The officer to collect this prevailing sense, is the clerk, who is clothed with great responsibility. The decision does not, says Barclay, rest with the *few* or the *many*. Age, experience, intelligence, weight of religious character, furnish considerations of importance in determining the sense of the community. If too much heat should be found entering into their deliberations, they wait until the tumult and agitation of the mind shall subside—until the passions shall be hushed under the influence of religious impression. In such a frame of mind, the pride of opinion is subdued, a proper regard is paid to religious intelligence and experience, and a silent and harmonious acquiescence is the result. What self-command, what discipline of the mind and heart, are required for the introduction of such a principle of action, and how far superior is it to decision by majorities, where the state of society is so far improved, and the passions are so far controlled as to warrant its introduction. It is said in the answer of Hendrickson, and is said truly, that one of the most prominent features in the “Hicksite” innovation, is the attempt to break down this distinguishing principle of decision which has so long prevailed in their society, with so much usefulness, and in its tendency to disqualify them for its use.

We become so familiarized with the artificial regulations of society, as to mistake them for the paramount rules of action prescribed by nature. Those who look only at the surface of society, are apt to imagine that all proceedings that are counter to the movements they have been accustomed to witness, must be absolutely unjust. The superior influence which would direct the actions of men associated together, in the absence of positive rule, would be the combined result of superior moral and physical power. In most of the institutions of society, majorities regulate their decision, because it furnishes a convenient rule; but this rule is often departed from, and would often

be unjust. In banks and other institutions where property is the main concern, it gives way to property; sometimes a concurrence of two-thirds or of three-fourths is required. In religious societies the promotion of religion is of course the grand object in view. Their rules of proceeding should be adapted to that object. Surely there is nothing unjust in requiring that mere numerical strength should give way to religious weight and experience, in a religious society where birth-right prevails, and more especially when the beneficial effects of this course of proceeding have been experienced through a series of ages.

But the "Hicksite" party, true to their purpose of introducing novelties, resolved to carry their ends by introducing among them the new and extraordinary principle of deciding by majorities. As preparatory to its introduction into this yearly meeting, they doubled their number of representatives in those quarters in which they had the predominancy, and for the great work of introducing a notorious disorganizer into the most responsible office among them. Their courage however failed them; they could not act up to their new purpose. The innovation would have been too glaring. Not an attempt was made in that meeting to count the votes. Amidst the agitation and bustle of the scene, John Cox, the respectable old man who is spoken of with so much approbation by the witnesses on both sides, reported,—what? That he could not count the majority? Nothing like it—he did not dream of ascertaining majority or minority. But he could not gather the sense of the meeting. The spirit of innovation and discord threw all into confusion. The "Hicksites" eventually abandoned this effort. They acted wisely in not persisting in their endeavour to palm a disorganizer upon the yearly meeting as their clerk. The old clerk took his seat. Comly took his seat as assistant clerk, and they proceeded to business. The yearly meeting became fully organized. Among other things they passed a resolution for raising money for the liberation of some slaves. This acquiescence however secured tranquillity but for a short time. It was like the calm which precedes the storm. The fires of discord were allayed, but they were not quenched. They were smouldering under ground. While this yearly meeting was engaged in the business of the society, the "Hicksite" party held secret meetings of their own apart, in which they were preparing the work of dis-

organization, and at which Comly the assistant clerk attended. Dr. Gibbons, the editor of the Berean, was there. They resulted in the issuing of a publication addressed to the members of their party, in which they state, "We feel bound to express to you under a settled conviction of mind, that the period has fully come in which we ought to look towards making a *quiet retreat* from this scene of confusion, and we therefore recommend to you deeply to weigh the momentous subject, and to adopt such a course as truth, under solid and solemn deliberation, may point to, in furtherance of this object," &c. They invite a convention to be composed of "*their members*," with a view to organize themselves anew, and by means of this new organization, to consummate their purpose of making a quiet retreat.

That purpose was consummated. That quiet retreat, or at least that *retreat*, was fully effected. In June, eighteen hundred and twenty-seven, that party held a convention which brought forth another address, but directed specially to their own members. In this address they speak of the blessed influence of gospel love and insinuate an abandonment by the opposite party of this *fundamental principle* of their union, as they term it. So it seems, they have fundamental principles, or in other words, according to their notions of fundamental principles, a creed. And they conclude this address with saying, "We therefore under a solemn and weighty sense of the importance of this concern, and with ardent desires, that all our movements may be under the guidance of him who only can lead us in safety, have agreed to propose for your consideration the propriety and expediency of holding a yearly meeting for *friends in unity with us*, residing within the limits of those quarterly meetings heretofore presented in the yearly meeting held in Philadelphia, for which purpose it is recommended that quarterly and monthly meetings *which may be prepared for such a measure*, should appoint representatives to meet in Philadelphia on the third second day in tenth month next, at ten o'clock in the morning, in company with other members *favourable to our views*, there to hold a yearly meeting of men and women friends," &c.

This passage in their address suggests several remarks for your consideration. It will be borne in mind, that this "Hicksite" party did not pretend to disown or exclude the "Orthodox" from membership. They complain that the

“Orthodox” were too restricted in their views of doctrine. They do not pretend to assert that persons entertaining their views of religion are not Quakers, but they contend for a broader latitude. They are for adopting a principle to regulate membership which will embrace trinitarians, unitarians, or even pagan philosophers. For it is well known that the platonic sect of pagan philosophers, did believe in divine illumination. In short, Quakerism, according to their views, would resemble the tessellated pavement to which the earl of Chatham’s celebrated cabinet has been compared. Abraham Lower admits that they did not pretend to disown the orthodox. The yearly meeting of Philadelphia in 1827, continued its sittings, and was regularly adjourned to meet the ensuing year as the discipline prescribes, and they did accordingly meet the ensuing year, and have continued to meet regularly ever since. It will be observed that the “Hicksite” address, which I last referred to, is directed specially to Friends in unity with themselves, who are prepared for their measures, and favourable to their views. Its object was not to call a convention composed of a delegation from the whole body of the members within the jurisdiction of this yearly meeting, but only a part of that body. A convention then composed of a party, met together in October 1827, and formed a new yearly meeting, which according to their adoption, has met subsequently at Philadelphia, yearly, a week sooner than the old yearly meeting, which continues to assemble at the usual time and place. They call this new yearly meeting a reorganization of the old one; a revival upon its pristine principles; a sort of phoenix rising from the ashes. But the old phoenix remains alive. The old yearly meeting continues in full operation. There are two radical objections to their effort to identify their new yearly meeting with the old yearly meeting. In the first place their new yearly meeting is the offspring of a party, and not of the whole body. There was no notification to the whole body to attend the conventions which formed it. The proceedings of the meeting of a corporation are not valid, unless there was a general notice to the whole body composing that meeting to attend. In the next place, according to the rules and government of this church, no new yearly meeting could be formed within the precincts of the old one without their concurrence, and of course no new yearly meeting without such concurrence could

be formed to supersede the old one. If we can place any confidence in the evidence, no yearly meeting ever has been formed within the bounds of an old yearly meeting without their concurrence.

The opposite party will derive no aid from adverting to the circumstances under which this old yearly meeting was originally formed in this country. The members of the society who originally organized this yearly meeting at Burlington, found themselves in a new position. They were not within the bounds of any yearly meeting: they therefore acted for themselves, in the same way as the early Friends proceeded in forming the first yearly meeting in London. But they bore in mind, notwithstanding, the general connection of all the parts of this religious society, by which they are identified in some measure as a whole. They advised the yearly meeting of London of their proceedings, and obtained their approbation; and considering the colonial condition of their new country, they became in some degree subordinate to that ancient yearly meeting, and appeals to it were allowed, and an appellate jurisdiction was actually exercised. Ever since this country has been freed from its dependence upon the British crown, an advisory correspondence has been kept up with them by the yearly meetings of this country. What analogy can a friend to order see between the proceedings by which this yearly meeting was originally formed at Burlington, and the proceedings which eventuated in the creation of this "Hicksite" yearly meeting? If a party may rise up in a church, hold private meetings, issue addresses to their own party, and thus form a party-convention with full power legitimately to create a new yearly meeting, there is an end to all order, to all rule, and to all regular organization of society. But they go still farther than this, and pretend that this new yearly meeting of their own, fostered and matured in the hot-bed of party-spirit, has completely superseded the old yearly meeting which still continues in operation, and has legitimately usurped and succeeded to all its rights.

I will not trouble the court with going into the details of the circumstances attending the separation in the Burlington quarter and the preparative meeting at Crosswicks. The proceedings in the Burlington quarter are detailed by Gummere, and in the meeting at Crosswicks by Craft and Emlen. In both cases, individuals intruded themselves

into the meetings, who did not belong to the society of Friends. By the principles of their society, no person can be present at their meetings of business, who is not a member; whether he has never belonged, or whether he has formerly belonged to their society, and been disowned. Unwilling to use force, but disposed to act in the spirit of peace, if any persons thus present should refuse to withdraw, the meeting must either cease to transact their business, or adjourn to some other place. The monthly meeting at Crosswicks and the Burlington quarter took the latter alternative, and adjourned to a neighbouring house, and took their minutes and papers, and their clerks with them. They did not privately meet in convention and form new meetings, but regularly adjourned their meetings to different places. In the mean time, the "Hicksite" parties who were connected with the persons who thus intruded, took possession of the meeting houses, chose new clerks of their own, organized themselves into monthly and quarterly meetings, and have placed themselves under the jurisdiction of this new yearly meeting, formed in convention by the "Hicksites" in the city of Philadelphia. The "Orthodox" Burlington quarterly meeting, and their monthly and preparative meeting at Crosswicks, still continue under the jurisdiction and control of the old yearly meeting of Philadelphia. Thus David Clark was long before the secession, and still is, the clerk of the "Orthodox" monthly meeting at Crosswicks; and Gummere, the clerk of the Burlington quarter, states that he still receives his reports from him, as such clerk.

I trust I have established to the satisfaction of this court, that the "Hicksite" party, having previously abandoned the religious faith of their fathers, have seceded from the rule and government of the church. It only remains to consider the effect of this secession and abandonment, upon the property in question in this cause.

I have already said that these religious societies take the equitable beneficial interest in property held by trustees for their use and on their account, in their social capacity; and I have shown that in all cases of charity, that cardinal virtue of christianity, societies thus formed may acquire such an interest in property, and that a court of equity will protect it, as Chancellor Kent observes. The court would otherwise be cut off from a large field of jurisdiction over some of the most interesting and momen-

tous trusts that can possibly be created and confided to the integrity of men. A body of men to hold property in a court of law, in a social capacity, must be generally incorporated. There are instances, however, in which they are allowed thus to hold property even at law, without an actual incorporation, and in such cases they are technically termed quasi corporations. An individual having an interest in property thus held, has not a vested interest. He is benefited by it in his social relation as a member of that society, and when he of himself and others along with him, forming a party, cease to be members from whatever cause, of that particular society, they cease to have an interest in the property of that society.

When two parties arise in a religious society, holding property thus protected in a court of equity, as a charitable institution, and they actually divide and become completely separated, holding different doctrines, that party must be considered as forming the true society, which adheres to the original established doctrines of the society. The object of a religious society is religious worship. But they worship their creator according to certain forms and doctrines in which they believe. The worship of their creator in this way is the special purpose for which the society was formed. They resemble in this respect a corporation created for a special purpose. In such a case, all its faculties and powers must be devoted to that purpose. A departure in essential particulars, persevered in, will be a cause of forfeiture of its right and privileges. Thus an association formed for banking purposes, could not appropriate their funds, to purposes essentially different. And thus in the case of a religious society formed for the promotion of certain religious doctrines, and for worship agreeably to those doctrines, the funds cannot, without violating the plainest dictates of justice as well as law, be perverted to the support of different doctrines and a different kind of worship. And when an unfortunate division arises, that party which clings to the original faith of the society, or in other words, to the special purpose for which it was originally organized, must, in the nature of things, be considered the true society, whenever the separation between them has become so marked as to render the determination upon that point necessary.

When the difference arising between such parties has

reference to the church government, and it is carried so far, that one party leave the government of the church, those remaining and adhering to the ancient government, must constitute that church. Those thus departing, may organize and form a new society, if they please, with a new government, but they must acquire property anew, if they have occasion to use any in their new social capacity. They cannot take the property of the old society with them.

If a departure either in faith and doctrine, or in discipline and church government, separately produce such effects, the combined operation of the two, that is a departure both in faith and in government, must unquestionably terminate in the like result.

The opinion entertained by the "Hicksite" party, that a radical departure by a portion of the society from the established faith and doctrine of the church, cannot be inquired into by a temporal tribunal, is so far from being true, that on the contrary, such a departure is not only a ground of forfeiture of their privileges and franchises in the church, but it is a consideration of paramount importance before the temporal tribunal. Thus if there are two parties, one of which has departed in essential doctrine, and the other in relation to church government, and a marked separation has taken place between them, that party which adheres to the true doctrines, will be deemed the true church, and as such entitled to all its temporalities.

The opposite party pretend that they have the majority. —This is denied, and they certainly have failed to prove it. Their own witnesses in the cross-examination show that but little reliance can be placed on the lists they have furnished, for they are grossly inaccurate. But I will not go into details upon this point, because if my view of the subject be correct, it is altogether unnecessary; and it would be altogether unnecessary in the case of a society which usually votes by majorities. In such a case the majority will regulate and decide on subjects coming within the pale of their authority, and which are not in violation of the trust. But a majority have no power to break up the original land-marks of the institution. They have no power to divert the property held by them in their social capacity from the special purpose for which it was bestowed. They could not turn a Baptist society into a Presbyterian society, or a Quaker into an Episcopalian society. They could not pervert an institution and its

funds formed for trinitarian purposes to anti-trinitarian purposes. It might as well be pretended that they could divert the funds devoted to the sustenance of aged and decrepid seamen to the use and benefit of a foundling hospital. A corporation diverted from the purposes of its institution will be regulated and brought back to its original objects by a court of law, and a religious society protected by the law of charities will be kept to its original destination by the powerful arm of this high court.

The principles which I have endeavoured to explain, appear to me to flow so naturally from the doctrines of trust, familiar to every equity lawyer, as not to admit of any dispute, nor do I know that the counsel on the other side will attempt to dispute them. I will call the attention of the court, however, to a few authorities for the purpose of illustration. In the case of *Baker and others against Fales*, 16 Mas. R. 488, it was decided, that when the majority of the members of a congregational church secede from the parish, those who remain, though a minority, constitute the church in such parish, and retain the property belonging thereto. The court say that the very term, *church*, imports an organization for religious purposes, and property given to it *eo nomine* in the absence of all declaration of trust or use, must by necessary implication, be intended to be given to promote the purposes for which a church is instituted, the most prominent of which is the public worship of God. That as to all civil purposes the secession of a whole church from the parish would be an extinction of the church, and it is competent for the members of the parish to institute a new church, or to engraft one upon the old stock. But where members enough are left to execute the objects for which a church is gathered, choose deacons, &c., no legal change has taken place: the body remains, and the secession of the majority of the members would have no other effect than a temporary absence would have upon a meeting which had been regularly summoned. The same point was in effect determined in 8 Mas. R. 96.

In the case of *Ryerson against Roome*, decided in this court, a part of the members of a church left it, and were incorporated anew, and formed a distinct church. The late chancellor of New Jersey decided that they were not entitled to any of the property; that the whole continued to belong to the old church.

The case of the Attorney General against Pearson, reported in 3 Merivale, was very fully discussed at the bar, and maturely considered by Lord Eldon. A bill and information was exhibited by the Attorney General, by Stuart claiming to be the minister, and by Mandon, a trustee; the defendants alleged that a majority of the congregation united in choosing another parson, who was a unitarian. The property was given upwards of a century preceding in trust for *preaching the gospel*, but without designating in the trust the kind of religious doctrines to be taught. They said that in 1780 some of the members were trinitarian, and some unitarian; that in 1813 they appointed Stuart the complainant their minister, then being a unitarian, but that in 1816, having turned trinitarian, they dismissed him, and that Joseph Grey, a unitarian preacher, with the *unanimous* consent of the congregation, was appointed in his place. The Lord Chancellor decided that this being a trust for religious purposes a court of equity would exercise complete jurisdiction. That the deed being in trust for religious worship without mentioning the kind, the court would resort to usage to explain it, and to ascertain the kind of worship originally intended. That it was not in the power of the members to change the original purpose of the trust, and if established for trinitarian purposes, to convert it to purposes anti-trinitarian. That the trustees, though vested with the power of making orders from time to time, cannot turn it into a meeting house of a different description, and for teaching different doctrines from those established by the founder; that he, as chancellor, had nothing to do with religious doctrines except to ascertain the purpose of the trust, that he was bound to determine that question and not to permit that purpose to be altered.

This case is too plain to require comment. That great Chancellor on a question of property did not shrink from inquiring into religious doctrines to ascertain a trust, and to make the property conform to the trust, under the fantastic idea that such matters were too sacred or sublimated for an English court of justice. Though it had been used for years for unitarian purposes, and the present incumbent, an unitarian preacher, was appointed *unanimously*, he directs an inquiry before the master as to what was the original purpose of the trust, that he might settle the property and have it appropriated to the maintenance

of those doctrines which were originally intended, and that too without inquiring whether there was any formal creed or confession of faith drawn up and signed.

In the second volume of Bligh's Reports, page 529, you will find the case of Craigdallie against Aikman and others. This was a Scotch case and came up before the House of Lords. A large part of the members of a congregation left the jurisdiction of the synod. But they claimed to hold the property on the ground that they were the true church, in as much as they adhered to the original doctrines of the church, and they alleged that the synod had departed from those doctrines. The court below decided in favour of the party who still adhered to the synod. In the House of Lords, where Lord Eldon presided, the court under his advice decided, that if it were true, that the members of the congregation thus seceding, adhered to the original doctrines of the church, for the support of which, the trust was originally created, they were entitled to the property, notwithstanding their secession, and that, in such case, the decision below, should be reversed. They therefore referred the case back, with directions that an inquiry should be made into the subject of doctrines. The case came again before the House of Lords with a report from the court below, that on inquiry they could not find that there was any material and intelligible distinction between them on the subject of doctrine, and that they differed, only, on some immaterial point in regard to the form of an oath. The court then affirmed the decision below. This case shows that either a secession from the government of the church or a departure in doctrine, will amount to an abandonment of right, but that the departure from the religious doctrines of the church is of *primary* and *paramount* importance. The case also shows, that in determining the mere question of secession, the court looks to the highest Ecclesiastical tribunal which exercises a superintending control over the inferior judicatories, and that their position must be regulated by the relationship in which they stand to the highest controlling tribunal in the Church. The same point has been decided in the state of New York. The trustees of the Reformed Calvinist Church of Canajoharie sued Diffendorf* for his subscription money which he had promised to pay annually as long as the Rev.

* 20 Johns. R. 12.

J. J. Warck remained their *regular preacher*. This clergyman had been deposed by the Classis having the immediate superintendence of that church, but on appeal to the synod, the highest church judicatory, he was restored. The court decided that the adjudication of the highest ecclesiastical tribunal upon this matter, was conclusive upon the subject, and that they must consider him the regular preacher. In the case of Den against Bolton and others, 7 Halstead's Reports, you had the rules and government of the Reformed Dutch Church before you as Justices of the Supreme Court, and it must be within your recollection that the synod of that church, has about the same general control over the inferior tribunals of that church, as is held by the yearly meetings of the society of Friends. In that case the Supreme Court decided that all disputes arising in the Reformed Dutch Church, respecting the validity of an election appointment or call of elders and deacons must be referred to the Church Judicatory to which the congregation is subordinate; that is, first to the classis, next to the particular synod, and lastly to the general synod. That the decision of the classis upon any such election, appointment, or call is final, unless appealed from, and its decision will be respected by the Supreme Court, and full effect given to it. That though the consistory may be dissatisfied with the decision of the classis, they cannot get clear of their decision by changing their allegiance. And the Chief Justice, in delivering his opinion, distinctly stated that to constitute a member of any church, two points at the least are essential, a profession of its faith and a submission to its government.

These authorities will be found fully to support the legal positions I have advanced. The application of them to the case is too plain to require much comment. If the "Hicksite" party have abandoned the fundamental doctrines of the society of Friends, and we have shown that they have; or if they have withdrawn from the yearly meeting of Philadelphia, the highest church judicatory, having a general superintending control, and if their preparative meeting at Crosswicks is attached to their new yearly meeting, and denies the jurisdiction of the ancient yearly meeting, all which we have shown, they are not the true society of Friends. In attempting to hold this property they are violating the trust. It is the especial duty of this Court to preserve the trust and to redress the injury.

I must be allowed again to remark before I dismiss this subject, that the question before you regards property. You are not called on to pass upon the merits of religious doctrine or church government in the abstract, as points of theology. You are only to ascertain what the doctrines of this church are, what was its government; in fact which party adheres to those doctrines, and which has abandoned them. Which party adheres to the government which existed when the dissension took place, and which has withdrawn from it, as subsidiary to the main question of property, and in order to ascertain and enforce the trust. The questions are delicate, and they also are of great importance, and highly interesting. It is now to be solemnly determined how far church property is protected. Whether the various churches spread over New Jersey, adhering to settled doctrines, and organized under regular forms of law and discipline, are to be protected in the enjoyment of property, held in trust for them and for the support of those fixed religious opinions, or whether on the other hand, innovators introducing new opinions into a church, and carrying parties along with them, and thus getting into possession of the property of the church, may apply it to the support of new and different doctrines, put the church government at defiance by denying its authority, and by forming in conventions composed of their own party a new government, put the government and law of the land at defiance, by refusing when called on in courts of justice to disclose or testify to their doctrines, under the cry of persecution, and under the pretence that such matters are too delicate and sacred for temporal tribunals to discuss. Men have a right to change their minds in religion as well as in any thing else: they have a right to form new churches conformably to their new opinions, and to endow them when thus formed, but they must do it fairly and openly, not under false guises and mysterious proceedings kept in the back-ground, so that they may draw off the funds and domains of the ancient and established churches of the land, and apply them to their new purposes. You have now before you all the evidence that can be desired, taken with great labour and at great expense. The cause is ripe for decision, and justice calls for it. Every source of information has been traced up and exhausted.

From the investigation which I have been called upon

to make into the doctrines of this society, in the discharge of my professional duty, I have been led to believe that this difference of opinion never would have taken place if the members of this society had been adequately instructed in their standard works. They have a catechism prepared by a writer of great learning and ability; it bears the marks of great care and pains in the execution, and it may fairly challenge competition in the plan and design with any production of the kind. If that catechism and the other works of that author were well studied and digested among the youth of this society, they would soon lose their relish for the conceits of Elias Hicks.

GARRET WALL, Esq. counsel of Hendrickson and Decow, having replied to Mr. WOOD, the argument on behalf of the plaintiff was continued by ISAAC H. WILLIAMSON, Esq. on the 10th and 11th of January, 1832.

Mr. WILLIAMSON commenced:

May it please the Court—The unfortunate circumstances which have given rise to this cause, are deeply to be lamented by every friend of religion, and to the pious members of the society of Friends they must be truly distressing. That ancient and highly respectable society, which has so long been distinguished for love of peace and order; for its meekness, for the patience with which its members have submitted to persecution, and above all, for the union and harmony, the brotherly love and christian charity, by which they have proved to the world that they richly deserved the title by which they have been designated, “The Society of Friends.” They have fallen from the high elevation on which they stood; the torch of discord has been lighted up among them; the union which existed has been broken; instead of fellowship and harmony, we find now contention and strife. This is the more to be lamented, as it has happened in a time of universal religious excitement, and of unexampled christian effort to spread the benign principles of the gospel. Whilst every means is using to promote the diffusion of light and truth, while the heralds of the cross are sent to foreign

lands to proclaim the message of redeeming love, and to hold forth the doctrines of the religion of Jesus, disputes and dissension have unhappily arisen at home. It is unfortunate for all; there is an awful responsibility somewhere.

It is for me to endeavour to trace effects to their true causes, and to ascertain what has produced this sad state of things. I shall go into this inquiry with extreme reluctance. When I consider the task I have undertaken, the arduous labour I am to perform, I almost shrink from it. I shall not attempt to answer all the arguments of the adverse counsel; many of them I conceive have no bearing on the case, but I shall endeavour to present my view of the subject to the court in a condensed form, and in such way as shall abridge their labours as far as practicable. I shall endeavour to ascertain what is the true question before the court, and in order that I may be the more clearly understood, permit me first to state what it is not. It is not whether a number of individuals belonging to a religious society have a right to withdraw and form a new one, this right is unquestionable.

Nor is it whether this court have a spiritual jurisdiction; whether they have a right to inquire into men's private opinions, as to matters of faith or religious belief, and to control their consciences. We claim no such authority for this court, nor do we pretend that the court can take notice of the comparative merit of religious creeds, nor decide which of them is the true one, for this would be to ask them to point out the true way to the heavenly Jerusalem. Our laws leave every man to the free exercise of his own opinions, and to worship God according to the dictates of his own conscience, uncontrolled by any inquisitorial power. But I shall contend that the court have a right to inquire into the opinions and doctrines of the professors of religion, for the purpose of ascertaining the *true ownership of property*, or the correct disposition of it. This is not to interfere with men's consciences, nor with their religious belief, or to exercise a spiritual jurisdiction. The question now before the court is a mere question of property arising out of a trust, and this court has not only a jurisdiction over property, but an exclusive jurisdiction over trusts. The property in dispute is a charity, a fund raised for the purpose of educating poor children belonging to the society of Friends in Chesterfield, in this state.

It was raised by subscription, by voluntary contributions and donations from the quarterly and annual meetings of which the preparative meeting of Chesterfield is a constituent part, and the object of the charity is expressly designated. There are two parties claiming the control of this property. The parties on the record are nominal parties only, Hendrickson and Decow in their own right claim nothing, they claim merely for the benefit of the societies to which they respectively belong. I shall therefore consider it in its true character, as a question between these two societies, and here I am somewhat at a loss how to distinguish these parties. The world, that part of it I mean which has heard of this controversy, has given them distinctive appellations, the one "Orthodox," the other "Hicksite." We are not dissatisfied with the name given to us. Ever since the fourth century, when the controversy arose between the arians and the trinitarians, those who adhered to what are termed trinitarian doctrines have been called "Orthodox." They are now styled "Orthodox" to distinguish them from arians and all modern unitarians, by whatever name they may be designated. The term "Orthodox" therefore has been used to signify, 'sound in faith, correct in doctrine,' and in this sense we are satisfied with being designated as the "Orthodox" party. But how shall I distinguish the opposite party, for they disown the name of "Hicksites?" Shall I call them disorganizers? They deserve the name, for they have introduced into a peaceful society, all this discord. Shall I call them unitarians? They will neither confess nor deny, they refuse to inform us whether they believe or disbelieve the doctrines of the trinity. Shall I call them jacobins and sansculottes, as one of their own counsel did, (and no doubt he thought they well deserved the epithets,) or shall I call them usurpers? They are such, for they have usurped *our* rights and our name. I cannot call them by the name which they have assumed. I shall therefore call them, as the world has called them, "The Hicksite party."

We claim before the court, that this party have separated from the society to which they originally belonged. That they are separatists; and being such, have lost all right to, and control over this fund. I will not say they have *forfeited* their right to it, but I contend they have lost all right to interfere with, or to control it. They have separated from the society and meeting to which they be-

longed, and for whose use the charity was originally designed: they can therefore have no claim to it.

I shall contend, First, that they are separatists, and being such, that they have no right to this property.

Second, that they have separated on the ground of religious doctrines, that they have changed their religious opinions, and do not adhere to the doctrines of the society of Friends. They follow a new leader who holds out new lights, and they have deserted *old* friends for *new* ones. If I can show this court that they have abandoned the ancient doctrines of Friends, those which they held when this trust was created, I shall satisfy the court that they can have no control over this property. But we are met with the objection that we have no right to go into this inquiry—no right to inquire into men's religious opinions and belief. I have already admitted that you have no right to do so except for special purposes. But if this court once obtain jurisdiction of a cause upon grounds of equity, they will decide that cause, although they are compelled to go into matters over which they have no original jurisdiction. The court we admit, has no jurisdiction over men's religious opinions, yet if an inquiry into those opinions becomes necessary in the investigation of a question before the court to settle a claim of property, it will go into that inquiry.

It has no criminal jurisdiction, it cannot inflict punishment, but if in the progress of a cause respecting property the question arises whether a deed has been forged, the court will go into an investigation of the alleged crime, not for the purpose of inflicting punishment, but for the purpose of settling rights. Again, the court have no jurisdiction over corporations, they cannot remove an officer who has been elected, nor restore him if he has been wrongfully removed. But if in the course of an inquiry a question arises whether an officer has been duly elected, the court must go into it. Or if the question arises in a cause of which the court has jurisdiction, respecting the election of directors of a bank, or managers of a turnpike road, the court must go into the inquiry, not because they have original jurisdiction of that question, but for the purpose of ascertaining the right of property to which the respective parties advance their claims. So in the present case, if the right of property depends upon religious opinions, the court must go into the inquiry as to those

opinions, unless religious opinions and doctrines form an exception to all other description of cases. This is not a new question, but one which is well settled, and concerning which there can be but little difficulty. In 1 Dow, 16, Lord Eldon says, "the court may take notice of religious opinions, as facts pointing out the ownership of property."

Here the true distinction is taken, the court go into questions of religious opinion and doctrine as matters of fact, to ascertain the true ownership of property. In 3 Merivale, 412, in a case very analagous to the present, the Lord Chancellor says—"I must observe, if the question comes before the court in the execution of a trust, whether a trustee has been properly removed, and that point depends upon the question, whether the trustee has changed his religion, and become of another (as in this instance) different from the religion of the rest of the society, it must then be, *ex necessitate*, for the court to inquire, what was the religion and worship of the society from which he is said to have seceded," &c.

In that case it seems a church had been built for the worship of dissenters, and the trust declared in the deed was simply "*for the service and worship of God.*" This church had gone into the hands of a part of the congregation who were unitarians. Part of the congregation were trinitarians, and they filed their bill, alleging, that the house was built to promote the spread of trinitarian doctrines, in order to obtain the possession of the property from those who held it for the purpose of preaching unitarian doctrines. The court went into the inquiry whether the congregation was originally trinitarian or unitarian. This case then is analogous to that on which we now ask the opinion of this court. The doctrine contended for by the opposite counsel would be prejudicial to religion and injurious to every religious congregation. If a trust be created for the benefit of a congregation professing one kind of religious doctrines, and afterwards claimed by a part of that congregation, but professing opinions of another kind, can it be maintained that the court will not or cannot inquire into the doctrines of those who claim the control of that trust, and into the doctrines of the church at the time of the creation of the trust, for the purpose of ascertaining who are the cestui que trusts entitled to it? And permit me to say, that if any trust ought to be protected, it is a trust for charity, and especially those of a religious nature.

I entertain therefore, no doubt, but that the court will protect this trust fund to the extent of its powers.

But it has been contended, that if this can be done in cases of schisms in other religious denominations, yet it cannot be done in the case now in question, because, as they allege, the society of Friends has no creed, no confession of faith, by which their opinions can be tested. I shall not now stop to inquire what their doctrines are, or whether they have such a creed. My present purpose is to satisfy the court that they can go into the inquiry what the doctrines of the society were at the time this trust was created, and what the doctrines of those are who have since separated from that society. But I shall hereafter contend that the society of Friends have a creed—that they have repeatedly published it, and that it is easier to ascertain the opinions of Friends, than of any other religious society in the country. But even supposing the contrary, will the court refuse to go into this inquiry on account of its difficulty?

I will refer the court to a case of much greater difficulty; the case to which I allude is in 3 Dessausure, 557, where the court was not deterred from going into the necessary inquiry by the difficulty of it. That was a controversy between two lodges of free masons; and it was decided that the grand lodge could not make regulations subversive of fundamental principles and land-marks. The question was whether a certain test oath adopted by the grand lodge, was of that character. Nothing could be obtained from the witnesses but matter of opinion, as they refused to testify what their fundamental principles and land-marks were; great contrariety also existed in the testimony, the witnesses upon one side swearing that in their opinion the test oath was a departure from the fundamental principles and land-marks, and those on the other side swearing that it was not so. But did the court shrink from the investigation, because it was attended with difficulty? No. They went into the inquiry and decided the question upon the evidence before them. We have been referred to an opinion of Judge Emmett, in the state of New York, and the character of the judge has been highly eulogized. That judge certainly stands high, and his opinion is entitled to great respect. But the opinion produced is a charge to a jury, delivered in the haste of a trial, and without an opportunity for full and calm exami-

nation, and therefore not entitled to the weight of a deliberate opinion. That, moreover, was a trial at law, and the court over-ruled evidence of religious opinions, upon what ground I do not know, except that the inquiry was a proper one for a court of equity and not for a court of law. This evidence being laid out of view, the judge undertook to charge the jury that in the absence of all other considerations, the majority must govern. This opinion being at law, cannot be held to govern in the present case. A *majority* can have no more right to divert a trust fund from the object for which it was originally intended, than a *minority*.

But what is the consequence if the court cannot go into this inquiry in the case of a schism in a society of Friends? Is the society of Friends to be an exception to all other societies, because they have no written creed or articles of faith, and the difficulty of ascertaining their religious doctrines? Can the presbyterian, the episcopalian, the Roman catholic funds be protected, and yet the property given in trust to the society of Friends not be protected? Can it be that the arm of the law is not long enough, or strong enough, to reach their case, and that they are to be put out of the protection and pale of the law? The clients of those learned counsellors, when they look at the consequences of this doctrine, will not, I should think, thank them for its avowal. If it be true, it leaves the society of Friends a peculiar people, to settle their differences in their own way, without protection and without redress. I do not apprehend that breaches of the peace would be the consequence of such a doctrine; this society would not in any event resort to physical force, but the necessary result would be, that if a part of a religious meeting attached to a general or yearly meeting, saw fit to change their religious principles, no matter to what, or how adverse to those held by the original society, they might carry with them the whole of the property, if they had it in their hands, and yet the law could not reach them, because they have no written religious creed. Thus then, a trust fund created for the express use of the society of Friends, might be converted to build a Roman catholic chapel, or a synagogue for Jews. This cannot be. If it should even be a matter of more than ordinary difficulty to discover the creed of this society, that will not deter the court, but they will make great exertions to arrive at the truth.

And here I think the opposite counsel who first addressed the court, took a false position. He contended, that it was incumbent on us to prove the religious opinions of his clients; that the burden of proof was upon us, not upon them. I think he must have forgotten the position in which the parties stand before this court. They do not stand here in the character of plaintiff and defendant, but in the character of claimants; both parties are actors, and each one is bound to make out his own claim. We make out ours; we prove all that the trust requires; we answer the allegations contained in the bill of interpleader, and show that our religious opinions are those of the society of Friends. When they come to answer, they decline showing theirs. It is true, they say they have not changed their opinions, that they hold the doctrines of the original Friends, as they understand them; but when we ask, Do you believe in the doctrine of the divinity of Jesus Christ, in the atonement, and that the scriptures were written by divine inspiration and are of divine authority?—all which were held to be fundamental doctrines by the early Friends—they refuse to answer. But still they say, We hold the doctrines of the original Friends. This answer is drawn to suit any state of things that may become necessary. Prove the doctrines of the original Friends to be what you please, still they say, We hold the same; prove them to be trinitarians, We are trinitarians; show that they are unitarians, We are unitarians also; prove them to be Jews, and, We will be Jews too. This is a very convenient way of answering, but it will not effect the purpose for which it is adopted. The bill of interpleader, and the answers of Decow and Hendrickson, put in issue the original doctrines of the society, and permit both parties to go into evidence respecting them. We prove what these original doctrines are, and that we hold them. But the adverse party refuse to answer as to the doctrines which they hold, or to grant any proof respecting them, alleging merely that they have a majority, and therefore are the society.

The burden of proof as to their religious doctrines, was upon them; they have put them in issue by their own pleadings, and it was incumbent upon them to show their religious principles, in order to sustain their claim. We further insist that their refusal to answer furnishes a strong presumption against them. If they really hold the

doctrines of the early Friends, as they allege, why should they refuse to answer? What inducement have they for withholding, or refusing to avow them? Are they ashamed of their principles, or afraid that they should be fully known, on account of the legal consequences which would attend an avowal of them? If they are not, why decline to state candidly what principles they do hold? But it is said, that we ought to have excepted to their answer. Not so—we are satisfied with the answer, if they are. We do not wish to strip off the mask, if they choose to wear it. We will make out our case in the clearest manner possible, and rely upon the presumption of law against them, if they refuse to disclose in their answer their principles, or to prove them.

But the gentlemen have suggested another ground of objection, with the hope, as I apprehend, of escaping out of the hands of this honourable court. It is this, that inasmuch as they have refused to answer, in reference to their doctrines, and have omitted to examine witnesses in their behalf on that subject, the court ought not to decide the cause now, but should put it in some shape in which the opinions of the party can be tested. It ought to be referred, say they, to a master to ascertain, or to a jury to settle, what the doctrines are. But can the gentlemen show an instance, in which the court has ever ordered a reference to a master, or directed an issue to be formed to be tried by a jury, where one party has proved his case, and the other party has voluntarily refused to do so. No, they cannot. It is contrary, I aver, to all the principles of a court of equity. The court will not indulge one party to lie by until he has heard his adversary's evidence, and then grant him a reference, in an issue in order to go into his own evidence; it will not give a party such an opportunity to tamper with witnesses.

And as for a trial by jury, your honours might as well order a jury trial in an account cause. This would be a glorious cause for a trial by jury, and much certainty, to be sure, would be obtained by it. The case now before the court is a question of trust, which more than any other, it is the province of this court to decide, it is bound to decide it, and will never yield that right in order to have it tried by a jury. The gentlemen have relied on the case in Dow, but that does not sustain them. That was an appeal from a court in Scotland, and from the record and plead-

ings sent up, it did not appear upon what ground the decision had been made. When the case came before the House of Lords, they ordered the cause sent back, because it did not appear upon what ground the court had delivered its opinion. There was no reference to a master, no trial by jury ordered, but the cause was referred back to the court, to state the ground of their decision. In 3 *Mervale*, 412, which the gentleman also cited, the court referred it to a master to ascertain the religious opinions of the congregation; but it was done by consent of parties; the question then came before the Lord Chancellor upon bill and answer, and upon a motion to dissolve the injunction which had been granted; the court there had granted the injunction, but in order that a speedy decision might be had, and to avoid the delay which might otherwise occur, referred it by consent of parties to a master, to ascertain what were the religious opinions of the congregation at the time of building the church. There could have been, in the then stage of the cause, no such reference without the consent of parties. I trust therefore that this court will themselves decide this question, which will be most advantageous to the parties, to the public, and to the cause of religion. In the case in *Dessaure*, to which I have already referred your honours, although there was great difficulty in deciding what the facts were, yet the court ordered no reference, but decided the cause, and I trust this court will pursue the same course.

Before I come to consider the evidence, I will take notice of another subject or two, which have been presented here by the adverse counsel. We have heard much from them respecting the friendly feelings, and generosity of the "Hicksite" party, and of their willingness to divide the property, according to the numbers of the respective parties. It is certainly very kind in them, to want to divide with us, property which belongs to us, and to which they have no right. But would the court divide a trust fund, which had been raised for a specific purpose, even if both parties were agreed to the division? No; this could not be. This court would never suffer it. This trust was created for one religious meeting, and would the court divert it, or permit it to be diverted from the object for which it was intended, and give it to two religious meetings? The court cannot divert the trust from its original purpose; it would be a breach of faith, and of every principle of equity, to

suffer it to be so divided. The adverse party have changed their religious opinions, and their supreme head; but they are welcome to return, if they choose, to their original principles, and to participate again in the property. They make no complaint against the "Orthodox" party, in the Chesterfield preparative meeting, they do not allege that they have changed their opinions. Where then, I would ask, is the generosity of their offer to divide, when the property is of a nature not to be divided, and to which, I will not say, they have forfeited all right, but I may say, over which they have lost all control? What is to become of the meeting houses in case of such a division? Are they to be cut in sunder, and a portion given to each party? Where will this doctrine lead to? If another division of the society takes place, there must be another division of the property, and another, and another. Will the court sanction a principle involving such consequences as these? Never: it will look to the object of the trust, and see that it is strictly applied to the purpose for which it was originally intended. It is enough for me to say, that in the present stage of this cause, the court cannot make the decision which they ask, it will not take the responsibility of dividing this property.

Another idea was thrown out, doubtless for the audience, more than for the ear of the court; they allege that we brought them into court, and by so doing, have violated the principle of Friends against going to law with each other. We deny the charge. We say that if they are brought here it is to be attributed to their own act, and it is the consequence of their own intermeddling, in that in which they had no right to interfere. The original bill was filed by Hendrickson against Shotwell to compel him to pay the money secured by the mortgage; Decow, who represents the "Hicksite" party then interferes, and tells Shotwell that Hendrickson is removed from his office, as treasurer to the fund, that he (Decow) is the person entitled to the money, and gives him formal notice that it must be paid to him, and not to Hendrickson; Shotwell is then compelled for his own protection to file his bill of interpleader. Have they then any ground for charging us with bringing them into court, when they voluntarily thrust themselves before it? If there be any thing in the charge it must rest upon them. Have we committed any breach of our principles? No, we have not. At the time of filing Hendrickson's bill, Shotwell was not a member of either meeting, nor had he been,

for a long time previous. There was then nothing improper in the commencement of this suit by Hendrickson against Shotwell, and if there has been any thing improper since, it is owing to Décow himself, and the party for whom he acts. Having thus endeavoured to remove out of the way, these several matters, which, I conceive, have nothing to do with the real subject of this controversy, I shall now endeavour to maintain two general propositions.

First, That the "Hicksite" party have separated themselves from the preparative meeting of Friends of Chesterfield, and attached themselves to a new yearly meeting as their supreme head, and thus become separatists, and as such, have ceased to have any right to the fund in question. Second, That they have changed their religious opinions, and do not hold to the doctrines of the society of Friends, as maintained and professed by them from the beginning, and at the time this fund was created; that they have adopted new doctrines, and become a new sect.

If I can sustain either of these propositions, we must succeed in this cause, and I am greatly mistaken, if I do not support both. In maintaining these positions, I hope at the same time, to prove that the "Orthodox" party are the true preparative meeting of Chesterfield, and adhere to the doctrines of primitive Friends. And I shall afterwards undertake to show the legal consequences arising out of the separation or secession of the "Hicksite" party.

First: The "Hicksite" party are separatists and seceders: they have separated themselves from the head of their church, the ancient yearly meeting in Philadelphia, and from the society to which they originally belonged. The parties before the court claiming the control of this fund, cannot both be the same preparative meeting, they have no connection with each other. There is no bond of union between them. One must be the true preparative meeting of Chesterfield, and the other a counterfeit, a spurious meeting. Both are not entitled to that character; which then of these parties is the real, and which the counterfeit meeting? which has ceased to sustain the character of the original meeting?

Before this terrible schism took place in the society, the Quakers throughout the world, considered themselves as one religious body, as a united whole. To use the language of one of the witnesses, they were a unit. It is true they were divided into several communities, and at the head

of these several communities, are the yearly meetings. These yearly meetings were to a certain extent, independent of each other, but still they always looked upon each other as brethren, and united in harmony. A correspondence was constantly maintained between them, and they were ever ready to assist each other when occasion required it. The yearly meeting at Philadelphia was that to which the Chesterfield preparative meeting was attached. The discipline of this yearly meeting describes the connexion and subordination of its constituent meetings in these words:

“The connexion and subordination of our meetings for discipline are thus: preparative meetings are accountable to the monthly, monthly to the quarterly, and the quarterly to the yearly meeting: So that if the yearly meeting be at any time dissatisfied with the proceedings of any inferior meeting; or a quarterly meeting with the proceedings of either of its monthly meetings, or a monthly meeting with the proceedings of either of its preparative meetings; such meeting or meetings, ought with readiness and meekness to render an account thereof when required.”—Book of Discipline, p. 31. Ed. 1806.

In conformity with this organization, the preparative meeting at Chesterfield was a constituent branch of, and subordinate to the Chesterfield monthly meeting: that monthly meeting, of the Burlington quarterly meeting, and the Burlington quarter, of the Philadelphia yearly meeting. It appears from the evidence, that the separation which first occurred, took place in the head of the society, in the yearly meeting. We must therefore look there, to see what was done to produce the separation, in order that we may form a correct opinion as to what has transpired since. As the division begun in the head, and subsequently took place in the branches, and as the branches have attached themselves to different heads, they must consequently stand or fall with the head to which they have attached themselves. If those who separated from the original head, and absolved themselves from its authority, and formed a new supreme head, are seceders, are separatists, then all those in the subordinate branches who have attached themselves to those seceders, and to that new head, are seceders also; seceders from their head, and seceders from their original principles. The “Hickites” say, that they are the original yearly meeting *reor-*

ganized and continued. We deny it; we say that they are a new society, a new meeting, totally distinct from, and unconnected with the former one, with the one, and *the only one*, recognized in the discipline. If they can show that they are a continuation of this meeting, and that they adhere to the original principles of Quakerism, they sustain their case; but if we prove that they are not a continuance of it, but have abjured it, and absolved themselves from its authority, and that they assume to be what they are not, they must then fail. Whether they are a new yearly meeting *or* whether they are separatists, must depend upon another question. Was the original meeting merged or destroyed, when the new meeting was formed? If it was not, then the latter can have no claim or pretence, to being a reorganization and continuance of it. The gentleman on the opposite side, put the question this morning on this ground, and here I am ready to meet him. He contended that the original meeting *was* put an end to, and that their new yearly meeting was merely a reorganization of the old one. This is an important point, and perhaps may be a turning one, especially if there should be any great and serious difficulty in ascertaining the doctrines of the respective parties. I shall therefore examine it carefully.

It appears from the evidence before the court, that the yearly meeting of April 1827, at which the separation took place, met regularly, transacted the usual business, and after they had got through that business, regularly adjourned to the following year; and that they have regularly met at the stated period and at the same place, and as the same yearly meeting, from that time down to the present. If that yearly meeting has been put an end to, if it is extinguished or destroyed, it must be by some act done at that yearly meeting, or by some act previously performed. Any thing subsequently done cannot effect its existence. This leads me to inquire, for the purpose of showing how the separation took place, what occurred at that meeting, which the gentleman can rely upon as a ground for destroying the original yearly meeting. But before I examine what then passed, permit me to advert to the course previously pursued by the "Hicksite" party. Much, it is alleged, had transpired to produce dissatisfaction and discord among the members, and even before that yearly meeting of 1827 assembled, a separation was

contemplated by the party who afterwards withdrew, unless they could obtain the ascendancy. They meant to obtain that ascendancy if they could, but if they failed in effecting that purpose, then they were determined to separate. This clearly appears from the evidence of Halliday Jackson, one of their own witnesses. Previous to the session of that yearly meeting, John Comly, who was the arch mover of all this business of separation, under pretence of a religious visit, had gone through the country, to prepare the minds of their party to come forward and make a struggle in the yearly meeting, holding out the idea of the separation, if that struggle should prove abortive. See 2nd vol. of Depositions, p. 58, 59, and 108 to 119. The great difficulty in the way of these disorganizers appears to have been, the meeting for sufferings, and the meetings of ministers and elders, and from the testimony of this witness, it seems, that the party wished to procure such changes in the discipline of the society, as should place those meetings under their own control and power. I shall hereafter notice the disputes, which had arisen in the society, respecting those meetings, and show that they all arose out of the opposition made to the doctrines of Elias Hicks. The discontents arising from this cause had determined his adherents to make a great struggle in 1827, and one part of their plan, it seems, was to increase the number of representatives to the yearly meeting from certain quarters. The "Hicksite" party had a decided majority in Bucks, Abington, and the Southern quarters. In Bucks and Abington, they accordingly doubled their representation, and in the southern, they increased it from ten to fifteen. The other party made no preparation for the struggle. In this state of things, the yearly meeting took place. The first controversy arose respecting the choice of clerk, who it seems is a very important officer in their meetings. The nomination of clerk rests with the representatives. At the close of the first setting, the representatives convened for the purpose of making a nomination. Two persons were put on nomination, Samuel Bettie and John Comly. The gentleman said, this morning, that Samuel Bettie was the last person in the world, who should have been put on nomination; he should have made one exception, he should have excepted John Comly. Previous to the yearly meeting, he had been round the country caucussing. This was called

by him and the party, "holding conferences," but by whatever name it is called, the object of it was to prepare the minds of his friends for the struggle, and for the approaching separation. If the representatives had submitted to his nomination, the result may readily be seen. A contest ensued among the representatives, each party insisting on their own clerk; the "Hicksite" party contended that they had a majority for Comly, while the others insisted that Samuel Bettie was the most suitable man for the station. It seems that the society of Friends are not in the habit of taking or counting votes in any of their deliberations. It was impossible to say therefore on which side the majority was. The clamour made there cannot settle this question, and there was no other test to which it was brought. As no decision could be effected by the representatives, what was to be done? Was the yearly meeting to stop, or was some other course to be adopted? The meeting unquestionably had a right to take the nomination into its own hands. When the representatives returned to the meeting in the afternoon, John Cox, one of their number, reported that they could not agree on a nomination. There is a variety of evidence upon this point, some say that the representatives were to meet again, and that John Cox was not authorised to make such report. But this is entirely immaterial. It is not denied that he did make such report, or that no person was agreed on by the representatives. The question then necessarily came before the yearly meeting, and there a struggle was made by the "Hicksite" party to prevent Bettie from acting; but no other person was put in nomination by the meeting. When it was found that the representatives were not likely to harmonise and agree upon the clerk, an elderly member of the meeting, observed, that he had been accustomed to the business for many years, and that it had always been the practice, that until a new clerk was appointed, the old one should serve. This quieted the meeting. Bettie took his seat and acted, and all opposition was withdrawn; here then was unanimity. That these were the facts of the case, I refer to the testimony of Samuel Bettie, vol. 1st of Evidence, p. 68; Joseph Whitall, vol. I. p. 217; and Thomas Evans, vol. I. p. 265. There is not a particle of evidence to the contrary. What can be more decisive upon this point, than the fact of Comly's taking his place at the table as assistant clerk. He showed some hesita-

tion at first, but when the appointment of Bettle was acquiesced in by the meeting, he (Comly) took his place at the table and acted as his assistant through the whole week. It is singular indeed that it should now be contended, that this appointment of clerk was such an act of domination as dissolved the meeting, when they themselves acquiesced in it, and continued their attendance during the whole of that meeting. This is not all; on the next morning an attempt was made to dissolve the yearly meeting. John Comly rose in his place, and stated that he felt conscientious scruples under existing circumstances against acting as assistant clerk. He alluded to the excitement which prevailed, and the feelings, with which they had come together, and finally proposed that the meeting should adjourn indefinitely. Here was an insidious attempt to dissolve the meeting: it was proposed to adjourn, not until next year, nor to any given time, but indefinitely. There can be no doubt that this was a preconcerted thing; an effort to dissolve the meeting, in order that their own plans might be more successfully carried into effect. That this measure was concerted between Comly, and the junto with which he acted, I refer to the testimony of Thomas Evans, vol. I. of Ev. p. 269. The meeting however refused to adjourn; many of the "Hicksites" themselves opposed it, and urged Comly to act as assistant clerk, and that the meeting should proceed with its business; and Comly again took his seat at the table and acted as assistant clerk: under these circumstances then, can the adverse party pretend, that there was no regular clerk, or that the meeting was dissolved, when the meeting refused to adjourn; when they themselves acquiesced in its proceedings, and remained during the whole meeting, until seventh day. If the meeting was dissolved, as they contend, those gentlemen should have withdrawn immediately, and if they had had the majority and gone on and set up their yearly meeting at once, there might then have been some pretence to a reorganization. But after acquiescing in the appointment of clerk, refusing to adjourn indefinitely, continuing their attendance at the meeting, from sitting to sitting, and participating in the transaction of its business, until its regular adjournment to the succeeding year, this pretence is certainly most extraordinary and futile. Who can believe that if Comly, who planned that struggle, had believed

the meeting to be dissolved, he would have remained there during the whole meeting, and continued to act as the assistant clerk!

We have heard a vast deal about the democratic principle of the majority governing in all religious meetings, and in this yearly meeting as well as others. The gentleman who preceded me spent much time upon this point; and no doubt his clients are deeply indebted to him for the discoveries he has made. He has discovered, it seems, but where I know not, that the society of Friends has always acted upon the principle of majorities, and that this is the true principle for them to act on. But will the gentleman pretend that it has ever been the practice of the society to elect its officers by ballot; or that there was ever such a thing known in any of its meetings as a count of members or a vote taken? Such a thing is not pretended even by the witnesses on their own side; nor can an instance of it be produced from the whole history of the society.

The clerk, it is admitted by all parties, is a very important officer in the yearly meeting, and in all their inferior meetings. He must be a man of decision of character, of respectability, of piety, and one in whom the meetings have confidence. Samuel Bettle had been clerk of the yearly meeting for many years, had served it acceptably, and continued to do so until this unfortunate controversy respecting Elias Hicks arose. When the meeting then finally came to an acquiescence in the appointment of Mr. Bettle, what was that but coming to a conclusion according to the rules of the society? The society do not go upon the ground that every man coming into a meeting stands upon the same footing. In town meetings, this principle prevails; but would it be a proper or a prudent course to take in religious meetings, where every member of the community may come? The society would never have existed to this day, if it had acted upon this principle. The clerk in obtaining the sense of the meeting, takes into consideration the age, experience, respectability and weight of character of the speakers. Men of age, of long tried experience, and of known piety, would be entitled to more weight and consideration, than the opinions of men young and thoughtless; men without any religious character or standing. When the clerk has taken what he believes to be the sense of the meeting, if the

meeting does not acquiesce therein, *then* is the time for complaint, and *not afterwards*. But in the case before us, the meeting did acquiesce in the appointment of Mr. Bettle as clerk, and did proceed to transact the regular business of the meeting. Even supposing, however, that the clerk was forced upon the meeting, will it be contended that that act did, or could, dissolve the yearly meeting? Such a pretence would be absurd. Those who were discontented, if such there were, had their remedy. They might have withdrawn immediately, and set up for themselves. Observe the difference between their conduct and that of the "Orthodox" in Burlington quarterly meeting, and in the monthly and preparative meeting of Chesterfield. When they discovered that persons were present who had no right to be there, and who would not withdraw, and that a part of the meeting were determined to secede from their former connexion, and attach themselves to the new head, they adjourned their meeting, and left the house in peace. They did not remain to occasion trouble and disturbance. Why did not the "Hicksite" party in the yearly meeting take the same course? They would then have had some ground for the allegation that their meeting is a reorganization and continuance of the regular, established yearly meeting of Friends in Philadelphia. But having acquiesced in the appointment of the clerk, having remained there and taken part in the proceedings of the yearly meeting, until its close, they cannot now object to that appointment, nor contend that it dissolved the yearly meeting.

There can be no doubt that every community, a religious community as well as any other, may adopt its own rules for determining questions that come before it. Is the democratic principle that a majority prevails, so strong and powerful that a religious body can adopt no other? Cannot Friends take their own course for settling subjects which come under discussion in their meetings? The opposite counsel would seem to hold out the idea that the majority must always be the test; but if a society has adopted another principle, will this court dissent from it, and attempt to set up another? No. Every society has a right to adopt their own principle, and the court will leave them to act upon it; or if they do not choose to continue that mode, to adopt another at their pleasure. The society of Friends then, have adopted another mode

of settling questions, and it is not for this court, or any other, to change it for them. It is in vain therefore to talk about majorities, or to inquire on which side was the greater number of speakers. All the witnesses on both sides admit, that this never was the practice of the society, but that they waited in solemn silence until they all acquiesced, or until all opposition ceased. Silence then having been restored after the appointment of Mr. Bettle, and all parties having acquiesced, he was duly appointed even upon their own principles; and I beg the court to recollect, that he was the *only person* nominated to the meeting for clerk: Comly was not even put on nomination there.

Where is the evidence, I would ask, of their having the majority which they allege? If they meant to rely on that fact, they ought to have made it out; but they have made out no such fact. They have called several witnesses to prove that John Comly was nominated before the representatives, and that there was, in the opinion of the witnesses, a majority there in his favour. But was there any thing done from which they could form that opinion? There was nothing; there was neither a vote taken, nor a count of members made. When they returned into the yearly meeting, it is not pretended that they had a majority for Comly, for he was not even nominated there. There cannot therefore remain a question as to the regularity of Bettle's appointment.

But will the court go into the inquiry whether he was duly appointed or not? It is not revelant to this cause. He was clerk *de facto*. Will the court inquire whether he was clerk *de jure*? He was elected; will the court undertake to say he was not *duly* elected? He was the *acting clerk*. Will the court undertake to say whether his appointment was proper? I think not. The court will take the facts as they find them, and finding Samuel Bettle clerk *de facto*, it is sufficient for their purpose.

The point we insist upon is, that even admitting the objections of the opposite counsel in their utmost latitude, there was not that irregularity in the appointment of clerk; or in the proceedings of the meeting, which could destroy the legal existence of the meeting. If therefore the court should even doubt whether he was regularly appointed, which I apprehend they cannot, will they undertake to say that that irregularity dissolved the meeting? That

could not be said without going contrary to the sense of every man who took part in the deliberations of that assembly.

There is another ground of complaint on which they rely. It is said, that a number of important questions were not acted upon by that yearly meeting. It is true that there were such questions brought before that meeting; but they had all grown out of the controversy respecting the doctrines of Elias Hicks, and they were disposed of by general, I might almost say, by universal consent. Some were postponed, and some referred back to the meetings from which they came. But supposing they were not acted on, it was a conclusion come to by universal consent, the meeting therefore could not have been dissolved by that cause. The meeting had an undoubted right either to act upon them, or to defer acting on them. Even if their proceedings in these cases had been irregularly postponed, it could not have dissolved the meeting. If it had been thought best not to act at all upon the business, at that time, on account of the excitement which prevailed, the fact of their not having acted on them, could not put an end to the yearly meeting.

Another measure complained of is the appointment of what is called the yearly meeting's committee. It appears that upon the last day of the meeting, on seventh day, (Saturday) morning, a proposition came from the women's meeting to appoint a committee for the purpose of visiting the quarterly and monthly meetings. All the witnesses admit that the appointment of such committees was in the regular order of the society, and that under other circumstances than those which then existed, could not have been objectionable. It seems however that when the proposal was made, an objection was raised to it by the discontented party. But after it had been some time under discussion, all opposition was finally withdrawn, and it passed with great unanimity. These then are all the acts complained of at that yearly meeting; and now I would inquire, whether, upon their own ground, there is a single act alleged which could extinguish and destroy that original meeting. The court will see that at that time there was no idea entertained that that meeting was dissolved. It was an after-thought, *adopted* by the party, but which never *originated* with themselves. I will refer the court for a history of the separation to the evidence of Halliday

Jackson. He is one of that party, and an active man in the separation, and therefore it cannot be supposed that any thing he details unfavourable to his own party, would be intentionally erroneous. He gives us a minute statement of their proceedings, from which it appears that before the Yearly Meeting of 1827 convened, John Comly had opened to him (Jackson) a prospect of this separation. It further appears that upon fourth day evening, of the yearly meeting week, a junto of about twenty got together in a private house, and there concluded to dissolve their connexion with the original yearly meeting. The separation was then agreed upon, and a plan contrived for carrying it into effect. A committee was appointed from among themselves to draft an address, and they then adjourned to fifth day evening, at the Green street meeting house. On Thursday (fifth day) evening, as many as two or three hundred attended there. The committee of the junto had prepared an address, to those who acted with them, which was read and considered, and they then adjourned to meet again, on sixth day evening. These proceedings took place during the yearly meeting, and while they were daily attending its sittings, and yet they now aver that this going off or separation, dissolved that meeting. Upon the evening of sixth day, it does not appear, that I recollect, what was done, but they adjourned to meet again *on the rising of the yearly meeting*. What was this but a recognition of the existence of that meeting, and of its being the original yearly meeting of Philadelphia, and an acknowledgment that they were waiting for its regular adjournment? No idea was thrown out, or entertained, that the meeting was to be reorganized, but simply that they were preparing to withdraw from it; upon seventh day morning, after the yearly meeting was regularly adjourned, they withdrew from the house, and went to Green street meeting house, not as the yearly meeting, for that had adjourned: they went as individuals, as dissatisfied men, not to reorganize the old yearly meeting, but to make a new and distinct meeting for themselves. Upon the morning of Saturday, the address which had been prepared was again read, approved of, and adopted; they then separated. This address was their *manifesto* in which they declared the cause of their separation, and of which I shall speak hereafter. In consequence of this address, a meeting took place in the sixth month following, at which they agreed upon and is-

sued what they call an epistle, but which may, I think, properly be denominated their *declaration of independence*. In this document they declare their intention of separating, and call upon quarterly and monthly meetings, which may be prepared for such a measure, and upon individuals in unity with them and favourable to their views, to attend in Philadelphia in the following tenth month, for the purpose, as they say, of holding *a yearly meeting*. Is there any thing in this, which looks like an idea in their own minds, of the non-existence of the original yearly meeting, or that it did not continue to be a yearly meeting, as much so, as if this cabal had never got together? It is not my intention to occupy much of the time of the court in reading, but this is a document of considerable importance, and I must beg leave to call the attention of the court to some parts of it. It is the Epistle agreed upon by the "Hicksite" party in sixth month (June,) 1827, and is to be found in 2nd vol. of Evidence, 456. It says, "We therefore, under a solemn and weighty sense of the importance of this concern, and with ardent desires that all our movements may be under the guidance of Him who only can lead us in safety, have agreed to propose for your consideration, the propriety of holding *a yearly meeting for Friends in UNITY WITH US*, residing within the limits of those quarterly meetings, heretofore represented, in the yearly meeting held in Philadelphia, for which purpose it is recommended, that quarterly and monthly meetings which *may be prepared for such a measure*, should appoint representatives to meet in Philadelphia, on the third second day in the tenth month next, at ten o'clock in the morning, in company with other members *favourable to our views*, there to hold *a yearly meeting of men and women friends*," &c.

Not one word is here said about reorganizing or continuing the yearly meeting; but the invitation given is simply to hold *a yearly meeting*. And to whom is this invitation addressed? If this meeting was designed as a *continuance* of the original yearly meeting, should not the address have been to all the members of that yearly meeting? If they meant to *reorganize*, should they not have called upon all? Certainly they should; and had such an idea then been entertained, they would have invited all the members. But the call is upon those only who are prepared for the measure: those in unity with them and favourable to their views. Can they now pretend that they met there as the

original yearly meeting of Philadelphia, and only for the purpose of reorganizing it, when their own epistle expressly states that their meeting was only for persons in unity with them? This document shows that they had no thought or design of reorganizing. In their address of fourth month, they talk of "a quiet retreat." What do they mean by this expression? Do they mean to avow an intention of overthrowing the original yearly meeting? It must require something more than a quiet retreat to effect this. Could any one understand from their own language, anything else than that they meant to secede and set up for themselves, to declare independence of the original meeting? Mr. Lower, and Mr. Halliday Jackson, both their own witnesses, place it upon the true ground. They call it, in their evidence, *a revolution*, and such it was. It was a revolution, a secession. We do not complain of this. They had a right to withdraw from the society if they chose to do so. But having withdrawn, and dissolved their connexion with it, they have no right to go on with the view of overthrowing the existence of the original yearly meeting. It is impossible for the court to read the epistle, and entertain any other idea than that which I have stated. They had a right in their addresses to include or exclude the "Orthodox" party, as they thought proper; but the fact of their *excluding* them and giving the invitation in the manner they did, proves conclusively that their purpose was to form a *new* yearly meeting, of their own sort.

The court will observe moreover that they call upon quarterly and *monthly* meetings which may be prepared for the measure, to send representatives to their new yearly meeting. The witnesses all agree that according to the rules of the society, monthly meetings cannot send representatives to the yearly meeting. The members in their individual capacity, may attend if they please, but representatives can only be sent by the quarters. Here was a departure from the discipline and established order of the society, making the constitution of the new meeting different from the old one. How do they justify this measure? Do they show any authority for it? Does this little book (the discipline) which the gentleman has held up to the court, as being their guide, contain any rule authorizing such a proceeding? No such thing is to be found in it. We have heard much about majorities, and of their

power; but if a majority in a meeting may destroy it, may take away rights which are vested in its members, this is certainly giving the question of majorities a power and importance which it never had before.

The "Hicksite" party thus have organized a new yearly meeting within the precincts of a regularly established and existing yearly meeting, and contrary to the rules of the society of Friends. They say the circumstances of the case, are similar to those under which the original yearly meeting was established in 1681. But this is not the fact. There was then no yearly meeting existing within the limits over which the proposed yearly meeting was to have jurisdiction, or which claimed as its members the persons who were to be included in the new yearly meeting. They met then, not within the limits of another yearly meeting, but where no yearly meeting had yet been formed. Monthly meetings attached probably to no quarterly meetings; quarterly meetings, and friends in their individual capacities, met and formed a new yearly meeting. But even then, though there was no yearly meeting claiming direct jurisdiction over them, they applied to other yearly meetings then existing on this continent, for their consent and approbation, before they established the new meeting. Decow in his answer states that the yearly meeting formed at Burlington in 1681 originated from a monthly meeting. What did the "Hicksite" yearly meeting originate from? Not from any regular or established meeting of the society, but from a junto, which met at a private house, agreed on a separation from an existing yearly meeting, and adopted measures to carry that separation into effect. There is then nothing similar in the two cases; there is nothing to be found in the establishment of the yearly meeting in 1681, which can justify the course pursued by the "Hicksite" party in 1827. No, it must come back to the ground upon which it was placed by Mr. Lower, and Mr. Jackson. It was a revolution, a secession, the establishment of a new meeting, and a new society. They had a right thus to separate and to form a society for themselves, they did so, and the consequences of that act, they must submit to.

I now proceed to their first yearly meeting, held in tenth month 1827, in Green street meeting house. We find from the testimony, that there were representatives attended from five quarterly meetings out of eleven.

There were eleven quarters attached to the yearly meeting of Philadelphia, and of these only five sent representatives to the new meeting. Six quarters were unrepresented in this meeting; they had not even a majority about which they have said so much. There were also one or two monthly meetings represented there. Those then who composed that meeting were representatives from five quarterly meetings, two monthly meetings, and other individuals favouring their views. I would now ask the court, whether this meeting, so constituted, can have any shadow of claim to being a continuation of the old yearly meeting? Is there any thing that looks like it, or that can bear them out in their pretensions? Every man who looks at the facts must see there is nothing.

Mr. Lower makes a most curious mistake, when he undertakes to fix the time of holding their first meeting. Vol. 1 Evidence, p. 468. He was asked "when the yearly meeting to which he belonged was first held or opened?" His reply is that "it was first opened in 10th month 1827." His examination was not then closed, but postponed to another day; meanwhile it seems he discovered that he had made a great mistake, or somebody had discovered it for him, and when he came to be examined again, he dates it back to the meeting in Burlington in 1681. The passage is a very curious one, and I shall beg leave to read it to the court. The witness says, Vol. 1. Evidence, p. 472. "I would beg leave to recur to my testimony at its close on the evening before last, and state that I was fatigued with a hard day's service, under the peculiar circumstances that I was then placed. I was fagged down and was not aware of my condition, till I came to reflect upon what had passed, and recurring to my feelings; and I think it is but justice to state, that I misapprehended the question that was put to me relative to the time of our holding our first yearly meeting, after the reorganization of society, that is, that it was in contrast with that yearly meeting that was held in Arch street, and which for the reasons that I have stated in divers instances, ceases to be a yearly meeting of the society of Friends. And I would therefore desire, that my answer to that question, should be according to the account contained in the book of discipline, that our first yearly meeting was held at Burlington in 1681."

There can be no doubt but the counsel or some other

kind friend, had informed this witness during the interval of his examination, that it was necessary to consider their meeting as a continuance of the original meeting, that they must not go upon the ground of its being a *new* meeting, and therefore the witness undertakes to correct the mistake and to apologise for falling into it.

Under all the circumstances of the case, this meeting being set up within the precincts of another, the original meeting being regularly adjourned and continued, and now existing, the court must see that this is not *the same* yearly meeting, but a new meeting and a secession from the original meeting, and from the society of Friends. What is the opinion of Friends upon this subject? Of all other meetings of Friends, whose minds have not been poisoned with the doctrines of Elias Hicks? Is there any yearly meeting of Friends in this country, or in Europe, which acknowledges this new meeting as a meeting of the society? The testimony tells us there is not one. The yearly meeting in London, which is the parent meeting, considers the meeting in Arch street as the yearly meeting of Friends, and holds regular correspondence with it as such. They consider the Green street meeting as spurious, as not being a part of the society of Friends, and refuse having any intercourse with them. Here then we have the opinion of a meeting entirely uncontaminated with the principles which produced the new meeting, and uninfluenced by the excitement which grew out of the controversy. They recognise the meeting in Arch street, and decline any communication with the other. The yearly meeting of New England also acknowledges the old yearly meeting, and disclaims all connexion with the new one. The yearly meeting of Virginia does the same. It acknowledges the yearly meeting in Arch street, as the regular yearly meeting, and refuses to have any thing to do with the other. Such is also the case with the yearly meeting of North Carolina. They have all denounced the principles of Hicks as being repugnant to Quakerism, and declared that the meetings set up by his adherents are not meetings of the society of Friends. In all the yearly meetings I have named there are no "Hicksites;" they have been spared the discord and division which the preaching of Hicks produced, and we find wherever there is no Hicksism, there Friends disown the new meeting and recognise the meeting in Arch street, as the yearly meeting of the

society of Friends. Is not this the strongest evidence that this new meeting of the "Hicksite" party is set up in violation of the principles of Friends? It is true they have been recognised by a division of certain other yearly meetings, but it is only where Hicksitism has attained footing, and by those who have adopted it as their own religion. A part of the yearly meeting in New York, who are of this character, recognise the new meeting and correspond with it. In Ohio a similar schism has also taken place, and a part recognise the meeting in Green street: the other portions of these meetings however do not acknowledge it. From an examination of other yearly meetings where a division has occurred, it appears there are none who recognise this new meeting except those who have been guilty of the same schism, of seceding in the same way. Mr. Lower attempts to account for this, and I call the attention of the court to his evidence on the subject, as it affords a fine specimen of his *christian charity*. He says, vol. I. Evidence, pp. 468, 9, "The yearly meeting of London does not correspond with the yearly meeting of Pennsylvania, New Jersey, &c. We understand, I think, by information, perhaps from the clerk of the London yearly meeting, communicated to the clerk of our yearly meeting, that they decline corresponding with our yearly meeting; and I understand that the reason alleged is, that the meeting for sufferings of the Orthodox yearly meeting of Philadelphia, have so defamed us in their communication to Friends of the London yearly meeting, as to induce them to submit our communication or epistle to the examination of perhaps two or three individuals, to report whether such communications are fit to be read in the meeting or not. The meeting, I think, has hence arrived at the conclusion not to hear those communications read, when those two or three individuals made their report, and the great body of the society remain ignorant of us, excepting what is supposed to be detailed out to them by those who are in strict unity with the orthodox yearly meeting here. As to the Friends in New England, they have been, I think, in a *lame way* some time back, and I have reason to apprehend they are not much better now, and we have no correspondence with them. The Virginia yearly meeting which I think the orthodox make a spread about, calling it the *ancient* yearly meeting of Virginia, from what information I have of that ancient concern, I am satisfied that it is a *very little*

concern. I should suppose from what I have understood, that the whole body of its members together, do not amount to a larger number than the members of Green street monthly meeting. Carolina yearly meeting does not correspond with us. These men of *leisure*, these *rich* men, I have spoken of in Philadelphia, were the medium of the communication of the bounty of the great body of Friends to help them and their poor oppressed blacks, out of their trouble, as far as that little bounty would go in such a matter, which, together with a sort of missionary influence, has had, I think, a powerful effect in alienating their minds, by infusing prejudices against us in them."

We see then, if the court please, that all the yearly meetings of the society of Friends refuse to acknowledge this new yearly meeting. It now remains for the court to say whether *they* will recognise it. Will you pronounce it to be a meeting of the society of Friends, when that society itself declares that it is not so? Will you recognise a meeting which is acknowledged by no body of Friends in the world, and by those persons only who are connected in the same schism. The court I think must consider it as a schism, as a new meeting, as a new head to a new society, and all those who have separated from the original quarterly, monthly, and preparative meetings, and united themselves to this new head, must be considered in the same light, as having seceded from the great head to which they were originally attached.

Wednesday morning, January 11th, 10 A. M.—My object yesterday, was to prove that the separation of the "Hicksite" party which took place in April, 1827, did not extinguish or dissolve the yearly meeting of Friends; that there was nothing took place *during* that meeting which could have merged or put an end to its existence. I shall now proceed to show that nothing transpired *before* that time which could have destroyed or put an end to it. If nothing occurred at or before that meeting to extinguish it, nothing that has happened since could produce that result. The subsequent circumstances which the gentlemen have so much relied upon, are the *effects* of these difficulties in the society, not the *causes*. The gentlemen mistake effects for causes. We contend that it was a real difference of opinion about essential religious doctrines, which gave rise to all these difficulties, and produced the separation; and that all the subjects of complaint on which they lay so

much stress, grew out of that difference. In order to satisfy the court that there were prior difficulties or grievances, and that their separation grew out of these, they go back to the year 1819. Before, however, I take up their different grounds of complaint, permit me to make one observation. Your honours will perceive from the testimony of the witnesses on both sides, that these subjects of complaint grew out of opposition to Elias Hicks, and to those doctrines which he publicly promulgated in his testimonies before the world. The cause of complaint which the gentleman states to have occurred in 1819, is an alleged disrespect shown to Elias Hicks. It is in itself a very trifling thing; one which such a man as Elias Hicks is represented to be, or indeed any one else, ought to have thought very little about. In the year 1819, when on a visit to Philadelphia, he left the men's meeting at Pine street, and went into the women's meeting, and while he was there, an adjournment of the men's meeting took place. This, it is said, was disrespectful to Elias Hicks, and that it is contrary to usage to adjourn the men's meeting while the women's meeting was sitting, or while a member of the men's meeting was there. But even if we admit this to be the case, it amounts to nothing more than a disrespect to the man; and is this a ground of serious complaint; a ground on which to rest the justification of their secession from the society? Is it a circumstance which this court can seriously regard? But it appears that it was not contrary to the usage of the society for the men's meeting thus to adjourn. All the witnesses who speak on this subject, those of the "Hicksite" party, admit that the yearly meeting had repeatedly done the same thing (see A. Lower's testimony, vol. I. p. 410,); the monthly meeting therefore had the example of the highest body in the society for its adjournment.

We do not however mean to deny that there was, even as early as this period, an objection to the doctrines and preaching of Elias Hicks. The sentiments which he had at that time avowed, had alienated many of the aged and solid members of the society; they viewed him as a new light; the introducer of new doctrines calculated to disturb the peace and harmony of the society, and to mislead the members; as one aiming to become the founder of a new sect; they therefore felt much uneasiness and concern respecting him.

Another subject of complaint is, that at a subsequent period when Elias Hicks was coming to Philadelphia on a visit, some of the elders in that city thought it their duty to interfere respecting the doctrines which he promulgated. He was coming there under the pretence of making a religious visit to the meetings and families of Friends. If the elders really believed that he was unsound in his doctrines, that he was spreading errors through the society, calculated to mislead its honest but uninformed members, that his conduct was calculated to produce a schism and division among them, was it not proper, was it not their duty as officers and guardians of the church, entrusted with the special oversight and care of the ministers, to oppose him in every proper method? If there was any body competent to judge of the doctrines of Elias Hicks; to form a correct opinion of the consequences likely to result from the course he was pursuing, the elders were that body. Men selected for one of the highest and most responsible stations in the church, chosen for their piety, their experience, and religious worth; clothed with a public character, and deputed to watch over the general interests and welfare of the society, and over the preaching and doctrines of the ministers. In the stand which these men took against the principles of Elias Hicks, was there any departure from the discipline of the society? The "Hicksite" party allege that there was: they say that those elders should have pursued a different course; that they should have complained against Elias Hicks to his meeting at home, the monthly meeting at Jericho, which as they say, was the proper body to deal with him.

But is there any thing in the discipline to prove that when he was in Philadelphia upon a visit, the elders there had no right to treat with him? There is nothing. On the contrary, he was under their care, and subject to their advice and admonition while there, as much so as any other member. The elders of Philadelphia therefore, undertook to interfere, as they had a right to do, and as they were bound to do, on account of the doctrines which he was known to promulgate in his public testimonies. It is not pretended, that if, after he left Long Island, he had preached sentiments adverse to the known testimonies of the society, respecting war, oaths, &c. the elders of that city would have had no right to deal with him; and yet they say, that when he undertook to advance doctrines

contrary to the principles of Friends, and calculated to produce a schism, they had no right to interfere. They have nothing, however, to sustain them in this assertion, and the one is as proper and necessary as the other.

But, if the court please, I am willing to put it on another footing. It was impossible to stop him in the promulgation of these sentiments in any other way. He has been represented here as being strong in the affections and hearts of those connected with him. It is true, he was so, and this made him the more dangerous. The confidence that was reposed in him, his standing, his popularity, and his influence, made him a most dangerous man to inculcate unsound doctrines. This very circumstance made it the more necessary for the elders to take the course they did. The meeting at Jericho had adopted his doctrines; they approved of him, and of all that he did. It was in vain then to apply to it for a remedy; it held that he was sound in the faith. They might as well have complained to Elias Hicks himself; and they had no alternative left but to take the course they did.

We find then, that a meeting of some of the elders and a few other friends, took place in Philadelphia at the close of a meeting for sufferings. Ten or twelve persons in all attended, and among the rest Lower, who is a "Hicksite," and one of the principal men on that side. He was requested to remain and consult what was best to be done, and from his own statement he appears to have taken an active part in the proceedings. The subject for consideration was stated to be the unsound doctrines of Elias Hicks, and the mischief he was doing among them. Was not this a proper subject of inquiry? Were they not authorized, was it not their undoubted right, thus to meet and take measures to prevent the evils likely to result from his course? They met, not as enemies, but as friends of Elias Hicks, to determine what was best to be done under the circumstances of the case.

It was well known that they could not stop him by applying to the meeting at Jerico. In fact, he had then left home, and was on his way to Philadelphia; an application to that meeting would therefore have been entirely unavailing. They were then obliged to take other measures to prevent the evils which must arise from the dissemination of his anti-christian doctrines among them. If there is any thing in the book of discipline which prevents the elders from in-

terfering with a member of another meeting, who is visiting among them, if there is any thing which forbids the course that these gentlemen took, I should be glad to see it. It has not yet been produced. If, when an individual is travelling from home, spreading false doctrines, and poisoning the members of the society with pernicious principles, no one is to interfere with him, but the meeting which sent him out for the very purpose of preaching these doctrines, it is indeed a serious and dangerous state of things. The society would be the prey of every ambitious innovator, who had address enough to insinuate himself into the good graces of his own meeting. It appears from evidence that at this meeting some of the elders were deputed to wait on Mr. Hicks, before he came to the city, to state to him the reports which were abroad respecting the nature of his doctrines, and to request of him an explanation. This was all that was done; the gentlemen appointed, however, did not obtain an interview with him, and here this matter ended. Soon after this Elias Hicks came to Philadelphia, and the elders thought it their duty again to endeavour to procure an interview with him. Two of their number accordingly called on him, stated the charges of unsound doctrine, which were alleged against him, and desired him to give the elders a select opportunity with him, agreeably to the usages of the society. It seems that he eluded this interview, he would give them no opportunity of conversing with him, except in a public manner. He said they had no right to interfere in the business, denied their jurisdiction, and all obligation to conform to any measures which they thought it necessary to adopt. They could obtain no private conversation with him. They were willing to have the interview in the presence of such persons as might be proper, but they could not consent to a public discussion in the Green street meeting house. This was not calculated to benefit the cause of religion, nor to advance the cause of religious truth. They wished to confer with him as brethren, as friends; but they did not wish to do it in public; this was contrary to the usages of the society; nor did they wish to do it entirely in private, but with as much privacy as the circumstances of the case and the custom of the society required.

As he refused to grant them such an interview, the elders then thought it their duty to address a letter to him, stating their uneasiness and concern respecting his doctrines and

ministry. He replied to this, and they wrote a second letter in answer to his, and here their proceedings ended.

Now, suppose these gentlemen were mistaken, that the facts did not justify the course they took, was there any thing in all this to justify the separation; any thing to form a ground for a division—a secession from the society? There certainly was nothing. But will the court inquire into this matter; is it a subject of which they can take cognizance? Is the court going to explain the discipline of the society for its members, or to put its own construction as to what it does, or does not require, under such circumstances? Will the court attempt to do this, or will it not rather look at the proceedings of the elders simply as they affect this controversy? If the Hicksite party can show that the care and concern of those elders tended to dissolve the bonds of the society; that it rent in sunder the ties which united the members, this is one ground; if they say merely, that it was a ground of dissatisfaction, and discontent to their party, we admit this. It was so; but then we trace it all back to Elias Hicks and his doctrines, as the original cause; but for him and his disciples, that dissatisfaction would never have existed, nor this schism occurred. The proceedings of the elders cannot justify nor explain this severance of the society,—they are not sufficient to account for it. It must come back to this point, that the whole cause of complaint, the whole source of difficulty, was Elias Hicks, and the doctrines he preached. These gentlemen, the elders, have been much traduced, as being a faction, rich men, an aristocracy, and as endeavouring to obtain power. These are strange charges indeed against men of their habits, and of their religious principles. Their whole course of life goes to exclude them from power, to restrain them from grasping after the power of this world. Is there any ground, in any thing they did, on which to found such charges, or to impute to them improper motives? No, the course they took was in obedience to their religious duty, as guardians of the society, as overseers of the church, on whom a serious and solemn responsibility was devolved by the discipline. They are charged with being *conspirators*, but for what did they conspire? To promote the cause of truth and of the Christian religion. I wish there were more conspirators of the same description. Their motive was not only justifiable, but laudable, every

christian man will sanction and approve it, will say they were fully justified in taking the course they did. If any facts had been laid before this court, to show that the conduct of the elders proceeded from mere prejudice against Mr. Hicks, or from sinister or malicious motives, and not from a sense of religious obligation, there might be some colour of pretence for this complaint. But when men of their character and religious standing, acting as they did from conscientious motives, are thus groundlessly traduced by a party in the society, it is a most unjustifiable and wanton course.

We then come to the Extracts which were prepared by the meeting for sufferings, in the year 1822, about which we have heard so much, and which have been declaimed against as an attempt to impose a creed upon the society contrary to its principles. This has been held here to be of so much importance, that the gentleman who first addressed the court on the opposite side, made it the ground of separation, the primary ground, and that all subsequent difficulties were to be traced to this act. It was necessary to put his finger upon some one circumstance, as the ground of separation, and he has chosen this as the strongest. Now I think it will not require a William Penn to shake *this* sandy foundation: the statement of a single fact will sweep it away. These extracts were prepared in 1822, in 1823 the subject came before the yearly meeting, and the publication of them was suspended, they were laid by, and we hear no more of them afterwards. If this then was the ground of division, why did not the separation take place in 1823, when they were before the yearly meeting? They complain bitterly of this meeting for sufferings, as being an aristocracy, requiring the strong arm of the law to put it down. Why did they not then take measures to put it down, at that meeting? At that time the excitement had not gone to the length which it afterwards did, they could harmonize and act in unison, and if this meeting for sufferings had been the dangerous body which they would now make us believe, then was the time to put it down and correct the evil. But no such attempt is made or thought of. When the extracts came before the yearly meeting, they were opposed; those in favour of publishing them yielded their opinion and they were laid by. Can any man believe that this circumstance, (even giving it all the characteristics which the imagina-

tion of the party has clothed it with,) occurring in the year 1823, was the cause of the separation which took place in the yearly meeting of 1827. If it was the cause, why was it not the *immediate* cause. The act complained of was done in 1823, why did they not *then* separate? But they did not separate *then*, they met again the year after, and the year after that, and transacted their business in the ordinary manner, until the year 1827, and yet that act is now set up as a circumstance which dissolved the bonds of union that existed in the yearly meeting. - If this was the fact, then from the year 1823 to 1827 the society was without a yearly meeting in Philadelphia. How was it then that Friends met during each of the intervening years, and transacted their business. They either were a yearly meeting, or they were no yearly meeting. If the act complained of, in 1823, burst the bonds of the society, and dissolved the ties which held it together, it terminated the existence of the yearly meeting; but if the society could and did meet as a yearly meeting for years after, and regularly transact its business, then that act did not dissolve the bonds of the society, nor put an end to the existence of the yearly meeting in 1827.

My object, if the court please, is to show that it was a separation which took place in 1827, not a dissolution of the yearly meeting. I might have answered all the grounds relied on by the other side, by saying, Gentlemen, they have nothing to do with the subject, they cannot affect the existence of the yearly meeting, and unless they put an end to the yearly meeting of 4th month 1827, the "Hicksite" meeting must be a new one. Their witnesses speak of it, as a separation, as the formation of a new yearly meeting, of a new society; they speak of the measures as measures designed to produce a separation. Their publications say that the time for withdrawing has fully come; not that the yearly meeting is dissolved. If then it was a separation, and it cannot be any thing else, who are the separatists? It is impossible to impute that character to us; no one pretends that we have separated from the society of Friends. They must therefore be the separatists; they cannot avoid the imputation, neither can they take the character of those they have separated from; they cannot be Friends, they have no claim to the title.

Another ground of complaint is, that the meeting for

sufferings, the great object of their hostility, wished to render itself a permanent body; that they attempted to interfere with the quarters in the appointment of their representatives in that meeting. That when one of the quarters attempted to change its representatives, the meeting for sufferings interfered and insisted that the existing representatives must remain in office until removed by death, or in some other mode prescribed by the discipline. Such is their complaint. Now I would ask the court, whether it will go into the inquiry, whether the meeting for sufferings be a permanent or temporary body? Will it undertake to give its own construction to the discipline of the society, and tell the members whether their meeting for sufferings is permanent or not? What bearing can this have on the cause now pending before the court? Supposing the meeting for sufferings to have been mistaken in their views of this subject, does that change any one fact bearing on the case, now before the court? I think not. The meeting for sufferings appointed a committee to go down to the quarter, and endeavour to terminate the business amicably. The committee accordingly went down, and stated the views of the meeting for sufferings in relation to the matter; and what was the consequence? The quarterly meeting adhered to its course, and there the business ended. When the subject came before the yearly meeting, which was the proper body to settle the discipline in the case, it was dismissed at the suggestion of the "Hicksite" party themselves, and with their full approbation. Is there any thing then in this circumstance which tends to show that the yearly meeting of 1827 was dissolved, that it had no existence, or that a separation did not take place between Friends and the "Hicksites?" The gentleman considers the conduct of the meeting for sufferings as of the most alarming character, that it was an innovation and intended to concentrate all power in the hands of this body, and to give them a control over the whole society. I am really at a loss to perceive where the gentleman finds any ground for these surmises. It is admitted on all hands that the change made by the Southern quarter in its representatives, was entirely a new attempt, that there is no precedent for it, since the establishment of the discipline, that it was contrary to the general opinion of the society as regards the powers of the quarterly meetings, the meeting for sufferings therefore hesitated to recognize it; they were cautious of

sanctioning a measure not recognized by the discipline and usages of the society, and therefore appointed a committee to confer with the quarter; the quarter refused to confer, and there the matter terminated. What is there in this which furnishes ground for the gentleman's apprehensions? I can see nothing. But suppose they are all well founded. What right have they to bring it here as a subject of complaint; the yearly meeting was the proper place to correct the evil, if any existed, and when it came there, they voluntarily dismissed it. Your honours will find by examining the testimony, that all the clamour which has been raised on this subject, grew out of the fact, that it was connected with the opposition to the doctrines of Elias Hicks. Two of the elders of Philadelphia, had been chosen by the Southern quarter, to represent it in the meeting for sufferings, and because they ventured to interfere respecting the doctrines preached by Hicks, the Southern quarter undertook to remove them from their station. That quarterly meeting is one of the strong holds of Hicksism, the party have the majority there. When therefore these elders attempted to interfere with E. H. the quarter says, these men are no longer in union with us; we will therefore displace them. The quarterly meeting contended that it had a right so to remove them, while the meeting for sufferings thought that by the discipline it had no such right. Will the court undertake to settle the question between them?

These then are all the acts complained of by the "Hicksite" party previous to the year 1827, and I think it is evident there is no circumstance occurring before the session of the yearly meeting which can possibly be considered as putting an end to its existence. What then is the character of the new yearly meeting? Here are two yearly meetings, one held in the Arch street meeting house, the other in Green street. The one in Arch street has existed for a century and a half. The other has grown up out of this controversy, and dates its commencement in tenth month, 1827. In this separation which is to be considered as the original yearly meeting? This is an important inquiry, one on which the whole cause may turn, and I insist that there cannot be a doubt but that the meeting in Arch street, is the true yearly meeting, the one which must be recognised as such by this court, the one that has been acknowledged by other yearly meetings of Friends, in fact by the whole society except those persons who have united

in the schism and separation which has taken place. If nothing was done previous to that yearly meeting, which extinguished it, nor any thing done during its session which had that effect, it must still remain to be the original yearly meeting. What then is the effect of this separation as it respects the property now in question? This will lead me to consider the division which has taken place in the subordinate branches of the yearly meeting, and to trace it down to the preparative meeting in Chesterfield. Our ground on this point is, that a separation having taken place in the supreme head, there being two meetings held by distinct bodies of people, assuming different powers and control, those in the subordinate meetings who have attached themselves to the new yearly meeting must be considered as a part of it, and those who continue to adhere to the old yearly meeting, must be viewed as a part of the society to which they originally belonged.

I shall first call the attention of the court to a difficulty which occurred in the Burlington quarter. After the call issued by the "Hicksites" to those who were disposed to separate and aid in the formation of a new society, in tenth month, 1827, this quarterly meeting took place. Permit me to remark here, that the Burlington quarterly meeting was not represented in the new yearly meeting of tenth month, 1827. They had no representative there, and after its formation they had the option either to join with it, or to remain with the other, to which they had always belonged. I stated yesterday that when the new yearly meeting was formed, only five out of eleven quarters were represented in it, the majority therefore was not represented. If they have increased so as to form a majority now, this does not change the state of facts then. There is no evidence that they had a majority then, or that this yearly meeting was set up by a majority, but so far as there is any evidence, it is directly against them.

John Gummere, in his evidence, gives a full and clear account of what took place in the quarterly meeting of Burlington. In answer to the question, "Have any difficulties and disturbances occurred during the period within which you have been clerk of Burlington quarterly meeting, either in that meeting or in any of its subordinate branches, which have resulted in the secession of a part of its members from the society of Friends?" the witness says, "I believe there have instances of disorder occurred

in a number of the subordinate meetings, but I can only speak from personal knowledge in reference to two. In Burlington quarterly meeting, which was held at the usual time in eleventh month, 1827, a number of individuals attended, who, it was stated, had either been disowned, or were under dealing in the respective monthly meetings of which they had been or were members. It being contrary to the order of our society for business to proceed when individuals so circumstanced, are known to be present, these were divers times requested to withdraw; they, however, refusing to do so, and being supported in their intention of staying, by a number of the members of the quarterly meeting, the meeting was under the necessity, in order that its business might be conducted consistently with the order of the society, to make an adjournment. It accordingly adjourned to the following sixth day (of the week) at Burlington, where it was duly and properly held. It was adjourned by regular minute. In a monthly meeting held at Burlington, the latter part of the year 1827, or beginning of 1828, one or more individuals were present, circumstanced as above mentioned; these declining to withdraw although repeatedly and affectionately asked to do so, the meeting was under the necessity of adjourning. It adjourned to the following day, when it was held in order and quietness. These are the only two instances of disorder that I know of, from being present at the time." Vol. 1, Ev. p. 316. And again in p. 317, of the same volume, in answer to the question, whether those members who thus advocated and supported the individuals spoken of (as refusing to withdraw) have or have not since that time separated themselves from the society of Friends, and gone off in the secession; the witness says, "I believe they have generally or all done so." In page 321, same volume, the witness says, "By common répute it (a meeting at Chesterfield, which they call the quarterly meeting of Burlington) acknowledges as its immediate superior, the meeting held at Green and Cherry streets, Philadelphia, assuming the style of the Yearly meeting of Friends of Philadelphia, which meetings are held on the second day of fourth month annually."

From this evidence, as well as that of several other witnesses, the manner in which the separation took place in the quarterly meeting of Burlington appears. At the

time it was held, the new yearly meeting of the "Hicksites" had been established, and it was now the moment of separation in the different branches; each party making choice of the head to which they would be attached. When the quarterly meeting assembled, it was found that a number of persons were there who had been disowned, or were under dealing by the society, and who consequently had no right to be present. They were affectionately and repeatedly requested to withdraw. This they refused to do, although it is an express rule of the society, never to transact business in the presence of persons thus circumstanced. The question then arose, what was to be done. These individuals were encouraged by the "Hicksite" party to remain. This at once produced a division; the parties could not act together; and the "Orthodox" meeting concluded to adjourn to another place; they did so, and with their clerk left the house. Now I perfectly agree with the opposite counsel that the existence of a meeting cannot depend on the place where they assemble, or whether the clerk goes with them or stays behind. I admit that this is immaterial. It depends upon the *motive* or *object* of the withdrawal. If these gentlemen at the Burlington quarter could not transact their business agreeably to the order of the society, where they were, they certainly had a right to adjourn to another place. The court will perceive how differently they acted from the "Hicksite" party in the yearly meeting. They make no disturbance, but quietly withdraw for the purpose of transacting their business in a regular manner; not to form a new society or a new meeting, but to hold the quarterly meeting of Burlington where they can transact business according to the discipline and principles of the society. Again, the court will perceive that this separation took place in consequence of that which had before occurred in the head of that meeting, the yearly meeting. One of the witnesses states, that a committee of the new yearly meeting attended at the quarter, and when the meeting was adjourned, remained behind with their party. The "Hicksite" party make no complaint of any thing done by the "Orthodox" in Burlington quarter; they complain of no aristocracy, no oppression there; nothing but their withdrawing from the meeting house, and holding the quarterly meeting at another time and place. This, we insist, was in conformity with the usages

of the society, as well as its discipline. It is said, on the other side, that we ought to have remained, that it is contrary to custom to leave the meeting until all the business was done. But, if it please the court, the meeting went along with them. Suppose the "Orthodox" party had remained; the argument then would have been, that by remaining they sanctioned what took place, and participated in what was done. The proposition was distinctly made in the quarterly meeting, that as they could not with propriety transact business among those who were present, they had better adjourn to another place where they could proceed in that harmony and order which ought always to prevail in their meetings. They had then the power of deciding whether to go or to stay, and having decided to go, they had a perfect right to do so. Farther: I hold that if they had had no opportunity of adjourning; if noise and clamour had prevented it; if the clerk had refused to accompany them; still if they had adjourned even under these circumstances, to transact their business in the order of society, they would have had a right to do so, and would have lost none of their rights, as the quarterly meeting of Burlington. It further appears from the testimony of the witnesses, that the "Hicksite" party in this quarterly meeting, have attached themselves to the Green street yearly meeting as their head, and their separation must therefore be taken to be of the same character with that which took place in the yearly meeting of 1827. The "Orthodox" remain connected with, and subordinate to the Arch street yearly meeting, to which Burlington quarterly meeting originally belonged. This is the situation of the parties in the quarterly meeting.

We come then to the Chesterfield monthly meeting; and I will call the attention of the court to the testimony of Samuel Emlen, for a detail of the circumstances which took place at this meeting. I do not mean to go into all the evidence on this head; it is abundant, and mainly of the same character; but from the testimony of a single witness we shall obtain all the important facts necessary for a clear understanding of what then occurred. The witness says, vol. I. Ev. p. 324, "Difficulties and disturbances have arisen within the monthly and preparative meetings of Chesterfield, which have resulted in a secession or separation of a number of persons there from the society of Friends. I was present at Chesterfield monthly meeting

in ninth month, 1827. The business on minute was gone through without collision, so far as I have any remembrance. But when, as I hoped, the meeting was about closing quietly, a person, a member of that meeting, made a request for a certificate of removal for his son to the monthly meeting of Green street. As far as I recollect, it was stated that that monthly meeting had been dissolved, or laid down, some time before, by Philadelphia quarterly meeting, of which it had been a branch, and the members thereof attached to the monthly meeting held for the Northern District, and this fact I suppose must have been known by common repute to most or all present. I think it was proposed, that the certificate should be addressed to the monthly meeting for the Northern District; but some persons present assuming to question the fact, William Newbold gave information that he was present at the quarterly meeting of Philadelphia in the preceding fifth month, when the monthly meeting of Green street was dissolved, or laid down, by that quarterly meeting. Some person or persons then present, said, that no official notice had been received of the laying down of that meeting, and still urged the appointment of a committee to prepare the certificate to be directed as first requested. This continued to be objected to, and it was not done. The meeting was adjourned in the usual manner, but a number of persons staid behind in the house, and from what afterwards appeared, I suppose undertook to act as a monthly meeting. I was not present at the usual time of holding that meeting the succeeding month, but understood, either the evening of that day, or the next morning, that the business of the meeting was not transacted, owing to interruption, and therefore the meeting was adjourned to next day. I went to the adjourned meeting, which was held quietly and without opposition, although a few of those who had taken part in the opposition to the order of society were present. I was at that monthly meeting in eleventh month, 1827. The regular clerk took his seat without opposition, although those who had opposed the order and discipline in that meeting were generally present. I think it was in the course of reading the minutes of the preceding month, that a person who had taken part in the disorderly proceedings previously, on a minute being read naming Samuel Bunting as agent of the monthly meeting at Chesterfield to the Asylum in his stead, (he having been released

at his own request, as it appeared) rose and said, that, meaning the releasement, was not all he had requested and desired, or to that effect, and wished to know whether a certain bond which he, as agent for Chesterfield monthly meeting, had given for securing payment of the expenses of a person placed in the Asylum by that monthly meeting, had been taken up and cancelled; thus appearing to acknowledge the meeting then sitting, with David Clark as its clerk, to be the real monthly meeting of Chesterfield. When this monthly meeting was closed, a number of persons disposed to separate, or who had theretofore acted disorderly, remained together. I should have observed before, that the usual reports from the preparative meetings of Trenton, Stony Brook, and East Branch, were handed in to the clerk, but those which ought to have come from Chesterfield preparative meeting, and Bordentown, were not produced. The person who acted as clerk at Chesterfield preparative meeting, on their being asked for, said, he did not consider this, meaning the present meeting, as the proper monthly meeting of Chesterfield. I think I was also at that meeting in the next month following, being twelfth month, 1827, and the regular clerk took his seat as before, as far as I recollect. I do not now recollect any thing very particular as occurring at that meeting. I believe the business went on quietly, though I will not be very certain. I should have stated, before alluding to the meeting of twelfth month, that the members of Burlington quarterly meeting, convened at the usual time, in eleventh month, for the purpose of holding the quarterly meeting; but a number of persons being present, coming into the meeting, who were known to be under appointment from the assembly then recently held at Green street, and also some others of the same class, some of whom were known to be under dealings or disowned by the respective monthly meetings of which they were or had been members, and they refusing to withdraw, when requested so to do, the meeting, of both men and women, was adjourned to Burlington, to the following sixth day, which I think was the 30th of the month, when and where the quarterly meeting was quietly held, and among other business then transacted, a committee was appointed to visit the subordinate meetings."

From the testimony of this and other witnesses, it also appears that the "Hicksite" party in the Chesterfield

monthly meeting, who are spoken of as remaining behind in 9th and 11th months, after the meeting had adjourned, organized themselves as a monthly meeting of the new society, and one of their first acts, as appears by their own minute under date of 9th month 1827, was to appoint representatives to attend their "*contemplated yearly meeting*," to be held in the month following.

The separation in the Chesterfield monthly meeting appears to have taken place, pretty much as the other had. The "Hicksite" party complain of the "Orthodox," that when a certificate was applied for, to be directed to the Green street meeting in Philadelphia, the clerk did not make a minute, because it was there represented that that monthly meeting had been laid down by its quarterly meeting. This has been represented as a most outrageous proceeding, and David Clark the clerk of the meeting, has been denounced as a pope in consequence of it. David Clark being the clerk of the Chesterfield meeting, he was in point of fact, the presiding officer, for they have no presiding officer unless it be the clerk. It was well known to the persons present, that the Green street meeting was laid down, and that this proposition for preparing the certificate was brought forward for the purpose of producing a separation in the meeting. The clerk therefore could not, consistently with the discipline and order of the society, make such a minute as the "Hicksite" party wished, because no such monthly meeting as Green street existed as a part of the society of Friends. He did not enter the minute, and he could not have done it, without a violation of his duty and of the order and discipline of the society. An immediate and total separation does not appear to have followed, for though the "Hicksite" party organized themselves as a meeting of the new society, with Jediah Middleton as their clerk, yet they continued to meet with Friends until the 12th month following, when they became entirely distinct. The meeting of the "Hicksite" party, united itself to their yearly meeting, held in Green and Cherry streets, and became a constituent member of it; while the Chesterfield monthly meeting of Friends remained a branch of the Burlington quarter to which it always belonged, and which is one of the quarters composing the Arch street yearly meeting. The question now is, which is the original meeting? This cannot depend on the fact which party left the house. They say

that we are the seceders because we withdrew, that because we left the house, we are separatists. This is a very convenient argument for them; they work it both ways. In the yearly meeting when *they* withdrew, it is a matter of no consequence, it does not make *them* separatists, but when in the monthly meeting we are compelled to leave the house in order to hold our meeting in quietness and order, *then* it becomes all-important, and the fact of our withdrawing makes *us* separatists and seceders. The fact however is, that the separation took place in 9th month, *before* Friends were obliged to leave the house, which was not until the 12th month following. In the 10th month 1827, the "Hicksite" party staid behind after the monthly meeting had been regularly closed, organized themselves as a meeting of the new society, and sent representatives to "their *contemplated yearly meeting*."* The truth is, that the question which is the original meeting, does not depend on the withdrawal, the place of meeting, or on the adjournment, nor on the clerk's going with those who withdraw, or staying with those who remain; these are not material: but it depends upon the motive and object of the withdrawal. If they withdraw, or remain behind to form a new meeting, this is what gives an important character to the act; but if they withdraw merely to transact business connected with the superior meetings to which they originally belonged, this is not a withdrawing that can affect their rights. It seems that the "Hicksite" party in the monthly meeting attempted to remove Mr. Clark, and to appoint a new officer, because he did not make a minute of the certificate which had been applied for to Green street. This attempt was disorderly, and contrary both to discipline and usage. Mr. Clark had been regularly appointed for a year, he acted in the conscientious discharge of his duty, according to the discipline, and they had no right to remove him in this way. At the meeting in ninth month, after the business of the monthly meeting had been regularly closed, the "Hicksite" party got together and appointed a clerk; and when they met in tenth month, this new clerk took his seat at the table, nearly one hour before the time of gathering, and continued there, and acted in defiance of the regular

* See minute of monthly meeting of the "Hicksites" held 10th month 1827. Exhibit, L. 2.

clerk of the monthly meeting. The whole of these proceedings are decidedly of a party character, and evince clearly that the "Hicksite" party were acting as a new and distinct society.

This leads us in the next place to the proceedings which took place in the preparative meeting of Chesterfield; and I refer the court to the evidence of Samuel Craft for a full and fair narrative of all the important facts which occurred there. The witness says "in the twelfth month, 1827, a committee appointed at Burlington quarterly meeting, and also a committee appointed in Chesterfield monthly meeting to visit and assist their subordinate meetings, both attended the preparative meeting held at Bordentown at the usual time, where there were a considerable number of persons who were members of Chesterfield preparative meeting present, comprising some of the same characters that acted in the disorderly proceedings of the Chesterfield monthly meeting of the tenth month; and after the meeting had set a considerable length of time, but before any friend on the upper seat in the meeting had shaken hands, which is our usual mode of closing our meetings for worship, or before any friend had vocally stated that it was the usual time to transact the concerns of the preparative meeting, most of the members rose hastily from their seats, and went up stairs where the business of the preparative meeting is usually transacted. Those who were there in attendance as committees, notwithstanding the unprecedented manner in which the members of the meeting had retired, believed it best to follow them. When the committees got up stairs, the clerk had opened or was about to open the preparative meeting. It was then stated to the meeting that there were two committees in attendance, viz. one from the quarterly and the other from the monthly meeting, which had established that preparative meeting, and if the clerk was acting as clerk of that preparative meeting held in subordination to those meetings mentioned, we had minutes of our appointment which we wished to present to the meeting. They did not seem disposed to give us any information respecting the character in which they were acting, and urged the clerk to proceed with the business, which they shortly went through and closed the meeting. But before the meeting was closed, one or more of the

committee in attendance remonstrated against these disorderly proceedings.

“On the following day, these same committees, or most of them who were then present, attended Chesterfield preparative meeting, and after James Brown, who was then at the table, had opened the meeting, and was about to proceed with the business, one of the committee present, that was under appointment from both quarterly and monthly meetings, stated to the meeting that there were then present committees from Burlington quarterly meeting, and Chesterfield monthly meeting, appointed to visit the subordinate meetings thereof, and that if the person then at the table, was acting as clerk of Chesterfield preparative meeting, held in subordination to the quarterly and monthly meetings just mentioned, they [the committee] had minutes of their appointment in these meetings respectively, which the individual was ready to present, if the person [clerk] was so acting. The meeting, or those who appeared to assume to transact the business, declined giving any direct answer to the inquiry. Some individuals observed that they knew no such appointment made in Burlington quarterly meeting. A friend, one of the committee, then observed that owing to circumstances that had transpired in the quarterly meeting in the preceding eleventh month, the quarterly meeting had been under the necessity of adjourning its sitting to Burlington, and in the adjourned sitting so held, in taking into consideration the painful circumstances that the members within its borders were then in, it had then and there made such an appointment. A person then replied that there was no use in discussing the subject, for it was well understood. This person I am pretty clear was Jediah Middleton. It was then suggested whether it was not giving countenance to such disorders, to remain in the meeting house, when the persons of this description were transacting what they assumed to call the business of Chesterfield preparative meeting. (I do not profess to give the words verbatim, but the substance I do.) After several sentiments being expressed, it was concluded that it would be more consistent with the due support of good order, to retire to another place and transact the business of Chesterfield preparative meeting. This view of the subject among men friends was communicated to the women’s meeting, with which they accorded, and the members,

both men and women, of that preparative meeting, who were disposed to adhere to and support the established discipline of the society, together with the committees in attendance, withdrew from the meeting house and retired to a private house not far off, and when there assembled the members of that preparative meeting first appointed a clerk, and then proceeded to transact the business of Chesterfield preparative meeting; after going through which, they took into consideration where the next preparative meeting should be held, and it was concluded either to hold it there, or that the subject should be introduced into the monthly meeting for consideration, and that it should be held at such place as the monthly meeting should direct. But before we withdrew from the meeting house, it was distinctly and explicitly stated that we withdrew to avoid contention, and in order to transact the business consistently, and that we considered that those who had been accessory to our being under the necessity of thus withdrawing, were intruding on our rights, and by so retiring from the house we did not thereby relinquish any rights that we were justly entitled to." vol. I. Ev. pp. 338—340. Here then we have a full development of all the circumstances which took place at the preparative meeting of Chesterfield, when the separation occurred. Was there any act done there by which we ceased to be that preparative meeting, or admitted the right of the adverse party to this character? Certainly not. Friends withdrew from the house because they could not, consistently with discipline, countenance the proceedings of those persons who had seceded from the original and proper head, and attached themselves to the new yearly meeting of the "Hicksites," held in Green street. They withdrew for the very purpose of maintaining and continuing their connexion with the original monthly, quarterly and yearly meeting, of which the Chesterfield preparative meeting was a constituent branch at the time when the fund now in controversy was created. They withdrew to maintain their subordination to these meetings, to which the discipline of the society bound them to be subordinate. The "Hicksite" party in that preparative meeting had determined to go over the new society, and its new meetings, and were then acting in subordination to and as a part of it. What then was to be done? Must friends remain, and go over with them to the new society? There was no other al-

ternative left, but to withdraw, and they accordingly did so, stating, at the same time, that by so doing they relinquished none of their rights, but that, being compelled by the necessity of the case, they retired from the house for the purpose of transacting the business of Chesterfield preparative meeting in connexion with its proper yearly and quarterly and monthly meeting. Was there any thing in this act by which they forfeited their character to the true preparative meeting? So far from it, that the facts are the very reverse, It is all-important to look at the motive which induced them to take this step, and in doing so, we find that it was with the avowed object of maintaining that character, and of transacting their business in harmony and order, and consistently with the rules of their discipline.

Which then, I would ask, is the same preparative meeting with that for whose use the fund was originally created? Is it the one which we represent, or is it the adverse party? They cannot both be the same preparative meeting, one must be a spurious meeting, the other the real preparative meeting of Chesterfield. What have we done to lose our rights, or to change our character, or that they should assume the rights or privileges which belong to us. They make no charge against us of having changed our religious principles, or departed from the society of Friends, or its discipline; nor of having thrown off our subordination or connexion with the proper yearly meeting. All that they can or do allege, is, that we would not remain in the meeting house, and unite in the transaction of business with men who were determined to withdraw from the regular and established meetings of the society. But the charge we make against them, and which, I think, we have proved to be true, is a much more important one. We say they have attached themselves to a monthly, quarterly, and a yearly meeting, which have seceded, have separated themselves from the society of Friends. We belong to the society and to the meetings to which we always belonged. You have joined a new one. We adhere to our old principles and to our old meetings, you have attached yourselves to new ones. We do not pretend that they are to lose their rights, in consequence merely of what passed in the yearly meeting of 1827. But we contend that the loss they have sustained, is in consequence of their own acts: of their own free choice to join the new society and its meetings.

After the separation which took place from the society and the establishment of the new meeting in tenth month 1827, they had their option either to remain with the old society or to join the new one. If they had not joined the new one, but remained firm with the old society, and changed neither their principles nor their connexion, no blame could have attached to them, they would have retained all their rights and privileges as members of the Chesterfield preparative meeting. It is on account of their own act, their own voluntary election, that we say they have lost their rights. As individuals they have no right to this fund, as members of the preparative meeting for whose use it was created, they have rights to it, but when they cease to be members of that preparative meeting subordinate to the monthly, quarterly, and yearly meeting, to which it belonged when the fund was created, then those rights cease. We insist that by separating from their head, and absolving themselves from its authority, and taking a new one, they have ceased to be members of the original preparative meeting of Chesterfield, and have lost their rights. It is not material to inquire whether they have *forfeited* their rights, or *lost* them. I do not contend that they have forfeited them, but that they have lost them, and for our purpose the effect is the same.

A member of the society of Friends, has no rights which he can transfer when he ceases to be a member; if he withdraws from the society he ceases to have those rights; if he returns again, and unites with them, his rights are renewed. We do not ask the judgment of this court, to forfeit the rights of the "Hicksite" party; we only ask the court to say that these men having ceased to be members of the preparative meeting of Chesterfield, for whose use the fund was created, cease to have any right of control or disposition of it. The court have no alternative but to give it to one party or the other. It belongs to the *same* preparative meeting for which it was originally designed. It cannot belong to both; both cannot be that one same preparative meeting; one must be the true preparative meeting, the other a counterfeit. If we are the true preparative meeting it belongs to us: if we are not we have no right to it. But what can deprive us of our character, as the same preparative meeting? It is not necessary that the same individuals or the same number of individuals should remain, in order to constitute the same preparative

meeting, for the individuals may change, and the meeting remain the same. Nor does it depend upon numbers; a majority, or a minority may separate and unite with other societies or meetings under a new head, but those who go away, cannot deprive those who remain of the character of the *same* preparative meeting. It matters not how many go, or how many stay; if five remain, or if only one remain, the trust must remain for the benefit of that one. The gentleman contends that the majority is with them, and that the minority cannot have the character of the true preparative meeting. They have yet to show that they are the majority, but suppose they were, will the gentleman's argument hold? Suppose a majority of the meeting had become Presbyterians, would they still be the same preparative meeting, or could they take the property with them? If they had turned Roman Catholics, would they still be members of the same preparative meeting of Friends? This would be absurd and preposterous. The whole matter depends on the question whether they continue members of the same society, and attached to the same preparative meeting. If they have lost this character, they have lost their right to the property. If they may lose it by changing their faith, their religious doctrines, they may lose it in any other way by which they cease to be members of the same society, and connected with the same head. If we have not shown the fact that they are not members of the same preparative meeting, we have failed in making out our case and must submit. But we insist that there cannot be a right in any majority, (even supposing the "Hicksite" party to have it,) simply because they are a majority, to take the control and disposition of this fund. It belongs to the same preparative meeting, for whose use the fund was created, and the "Hicksite" party cannot be that same meeting, because they have left it, and attached themselves to a new yearly meeting, and a new head which did not exist when the fund was created.

I do not think it necessary to follow the learned and eloquent counsel over the ground which he took in examining the discipline of the society, and endeavouring to elude the control which the superior has over the inferior meeting. He mistook the ground upon which we intended to rely; he supposed we meant to insist upon a forfeiture, in consequence of the setting up and establishing,

by others, a new yearly meeting. Not so. We set up against them *their own* acts: we rely on these to make out our case. How can it affect this question, whether the superior meeting have power over an inferior meeting to lay it down or not? It is true the discipline of the society gives the superior meeting unlimited control; it sets no bounds to the authority; yet I do not mean to contend that the superior meeting has original and absolute control over the property of the inferior. We do not ask the court so to decide, nor whether they have any control at all. It has no bearing at all on this question. We are looking for the character of the claimants now before the court; what is the character they assume, and what is the character which justly belongs to them. This does not depend upon the power of superior over inferior meetings; it depends upon the acts of the respective parties, and when they cease to be members of the original society, their rights to its property cease, whether this inferiority exists or not.

The gentleman has extolled the beauty of the Quaker discipline, and of their system of government. I agree with him. It has many things in it worthy of admiration. I admire it for its simplicity and beauty; but I cannot admire it for its weakness; and if the discoveries which the gentleman has made be correct, it is, in one point, very weak. The gentleman has discovered, it seems, that the superior meeting has no control or authority over the inferior; his first position was that they had no control, but to give advice. But he presently grows bolder, and says, they cannot even give advice, *unless their advice is previously asked*. He tells your honours, that a monthly meeting cannot advise a preparative meeting, unless the latter choose to ask that advice. They may see them departing from the discipline, from the principles of the society, or doing wrong in any other way, yet they cannot interfere unless the preparative meeting invite them to do so. If this be the case, it is certainly a great defect. But does the discipline tell us any thing of this sort? Does it recognize this independence and irresponsibility in the inferior meetings? Far otherwise; the paragraph which I cited yesterday, speaks a language directly the reverse. It says in express terms, "The connexion and subordination of our meetings for discipline are thus: preparative meetings are *accountable* to the monthly; monthly to the

quarterly; and the quarterly to the yearly meeting. So that if the yearly meeting be *at any time* dissatisfied with the proceedings of any inferior meeting, or a quarterly meeting with the proceedings of either of its monthly meetings, or a monthly meeting with the proceedings of either of its preparative meetings, such meeting or meetings ought with readiness and meekness to render an account thereof when required." Here is nothing like the inferior meeting asking advice, but at *any time* when the superior meeting is dissatisfied with the proceedings of an inferior, it may call it to account, and the inferior is to answer that call with meekness and readiness. Look at the practice of the society; do they not constantly appoint committees to advise and assist the inferior meetings? Has not this been the custom from the earliest periods of its existence? Fortunately for them, the counsel has discovered their error on this point. It is time they should leave every meeting to its own control and pleasure; and if the inferior meetings never choose to ask advice, the superior must not attempt to give it; they are free from all control. Such an idea never was entertained in the society. When the yearly meeting appointed its committee, in 1827, the "Hicksites" never started this as an objection. No man, in the yearly meeting had any idea of such a thing. When that committee went down to the quarterly and monthly meetings, were they told, that as they had not asked the advice and assistance of the yearly meeting, it had no right to send a committee down? Did the inferior meetings say, 'When we ask the advice of the yearly meeting, it may send you, but until then you have no right to advise us?'—no such thing. Great as was the hostility of the "Hicksite" party to this committee, such an objection was never once advanced. They were opposed to it on another ground; they refused to receive the advice of the committee on the ground that a separation had taken place, and that it was not appointed by the yearly meeting to which they were attached. If superior meetings can give no advice but when they are asked for it, their superiority is nominal, and the subordination and accountability prescribed by the discipline are mere empty sounds. I cannot admire this system for its weakness, though I may for its simplicity. When it is represented to me as the tie which is to unite the society, and hold it together as one body, and yet that there is no bond of

union, no responsibility, no subordination in its provisions; when the gentleman tells me, that the superior meetings have no authority or control over the inferior; that each one may act as it pleases, independent of all the rest, and yet that this is a system of church *government*, I cannot say I admire it. And I suspect that the gentleman will never prevail, even with his own party, to adopt these notions. Their superior meetings will not cease to exercise control over the inferior, nor will they consent to appoint committees to give advice only when their advice is asked. Halliday Jackson, in his testimony, (vol. II. p. 142) tells us, that since their separation, in 1827, the "Hicksite" yearly meeting has already appointed three such committees, and I presume they will continue to do so, whenever they think it expedient, without consulting the inferior meetings.

It cannot be of any importance in the decision of this cause, that the "Hicksite" party have got possession and control of this school. The gentleman seems to think, that because the school house and school are in their hands, they must be considered as entitled to this money. This, if it please the court, is the very right in question. If they are the same preparative meeting, they are entitled to it; but if they are usurpers, and have taken from us our rights and property, without the authority of law, it must be restored to us. It is idle to say, that as we have taken possession of the property, and have it in our hands, it is ours, and we will keep it. This is a very weak argument, and a very bad one; one which would cover almost any species of injustice. The question before the court is one of right, and not of possession. Does not the right of the trustees of the school, and of the treasurer, depend on the character of the persons who appoint them? The "Hicksite" party say, that they have trustees, and that these trustees have appointed their treasurer; that these officers have been regularly appointed, and that therefore they are clothed with authority to demand this money. Be it so; their officers can only derive their authority from the meeting which appointed them, and if that meeting has no right to control the fund, its officers can have none. We also have trustees, and a treasurer, and we want the money to use for the purpose for which it was intended, to apply it to the use of those who are entitled to it. The opposite party tell us, that the school is doing great good;

that they apply the fund to the purpose for which it was created. Supposing this to be the fact, will it not be properly applied, if they have to give it up? We wish to obtain the money for the purpose of using it as originally contemplated in the trust, and if we do not so use it, there is a power to compel us. The right of these trustees, and of the treasurer, must depend entirely on the character of those who appointed them. If the character of these is good—if they are the same Chesterfield preparative meeting recognized in the trust—then is their title good; if they are not, they have neither right nor title to this property.

I have one more remark to make on this part of my subject, and then I have done with it. The trust cannot change, although the trustee may change; and if the trustee live in Philadelphia, or in London, or elsewhere, the arm of this court is strong enough and long enough, to prevent the fund from being diverted from the purpose for which it was raised. If the person who holds this money, were to attempt to convey it away for the use of a meeting in London, or in Philadelphia, or any where else, other than for the Chesterfield preparative meeting, he could not do it. If the attempt was made, this court would grant an injunction and annul the conveyance. The principle is a very simple and safe one. The trustee may change, the trust cannot; this court will take care of the trust fund, will follow it into the hands of a third person or wherever it may be conveyed, and see that it is faithfully applied to the purposes for which it was originally intended.

With these remarks I shall leave this part of the case, not doubting but the industry of the court will supply any deficiency which may have occurred in my examination of this subject. I think I have now made out my first proposition, viz. that a separation of the “Hicksite” party from the society of Friends has taken place; that the meeting held annually in Green street, is not a continuance of the original yearly meeting of Philadelphia, but that it is a separate, independent and distinct meeting, entirely unconnected with the other. This being the case, the quarterly, monthly and preparative meetings, connected with and composing it, must be of the same character, must be separatists, and subject to all the legal consequences of that character.

I shall next contend that this schism which has taken

place, has been produced by a difference of opinion on religious doctrines. Of the facts of the separation and the circumstances under which it occurred, we are already in possession; we are now to look to the cause which gave rise to it. We allege one cause, they attribute it to others. We contend that it originated in a difference of religious doctrines, they say that it arose from violations of the discipline. Let us then proceed to the investigation, and see if we can ascertain the true source of the unfortunate state of things which exist among them.

And here it will probably be supposed that I have a difficult task to perform; indeed, the gentleman who preceded me has proclaimed that I am about to attempt a task, which is not only difficult, but impossible; that I cannot ascertain what are the doctrines of the primitive Friends, nor the doctrines of the society now, nor of the parties before this court; that there is neither test nor standard by which their doctrines can be tried, and that therefore it is impossible to ascertain what they are. But if I am not much mistaken, I shall lay before this court a body of evidence upon this point, which must carry conviction to every mind. If credit is due to human testimony, to written documents, to solemn declarations of faith, officially made, to the proceedings of the yearly meeting, or to years of experience in religious society, I think I shall satisfy the court, not only that the society of Friends have fundamental doctrines, a belief in which is essential to membership, but also a departure from these fundamental doctrines on the part of the "Hicksites." Upon this branch of the subject I shall, in the first place, lay before the court a document proceeding from the party themselves, of a character which must place them in an unenviable predicament. Fortunately for the cause of truth, we have possession of a document that can leave no room to doubt as to the real ground of the separation. When that party thought fit to separate from the society in the Philadelphia yearly meeting, "to make a quiet retreat," in a moment of honest feeling and candour, without knowing the legal consequences of the act, they thought proper, in order to justify their conduct to the world, and especially to the members of their own society, to prepare and publish an address showing the true grounds of their secession. They issued this address for

the very purpose of telling the whole community what were the causes which induced them to take the important step of withdrawing from the society with which they had been connected. It is their manifesto, and they must stand by it; they are solemnly bound by the declarations it contains. It is not a hasty or sudden, but a deliberate and sober act; it is not the act of one individual, or of a few individuals, but the act of the whole body there assembled, uniting in one common address, and thereby solemnly declaring to the world the principles upon which they have separated. The document to which I allude is the address issued by the "Hicksite" party, at their meeting in Green street meeting house, in fourth month, 1827. It is to be found in the appendix to vol. II. of Ev. p. 453. It holds this language: "With this great object in view, our attention has been turned to the present condition of this yearly meeting, and its different branches, and by evidence on every hand we are constrained to declare that the unity of this body is interrupted; that a division exists among us, developing in its progress, views which appear incompatible with each other, and feelings averse to a reconciliation. *Doctrines held by one part of society, and which we believe to be sound and edifying, are pronounced by the other part to be unsound and spurious.* FROM THIS has resulted a state of things that has proved destructive of peace and tranquillity, and in which the fruits of love and condescension have been blasted, and the comforts and enjoyments even of social intercourse greatly diminished. Measures have been pursued which we deem oppressive, and in their nature and tendency calculated to undermine and destroy those benefits, to establish and perpetuate which, should be the purpose of every religious association." Here is language too plain and explicit to be misunderstood or evaded. It is a clear and positive declaration that *doctrines* formed the original ground of the separation. Whatever subsequent difficulties they may complain of, or whatever "measures may have been pursued which they deemed oppressive," they declare them all to have resulted from the differences which existed in reference to religious doctrines. Doctrines which one part considered sound and edifying, are considered by the other to be unsound and spurious; and *from this cause*, all the difficulties took their rise. Can there be a doubt then, that there was a division, a schism,

in this religious society, arising from disunion on matters of faith, on fundamental doctrines? The seceders themselves so declare it to the world; it is now too late to deny it, and attempt to find some other cause. Their declaration is either true or false. Will they acknowledge it to be false? No. I will not say, they dare not acknowledge it to be so, for I know not what they dare not do, but they cannot now change their ground, and the attempt to do so which has been made cannot avail them any thing; they stand fully committed, and although their ingenious counsel have used much adroitness in endeavouring to make it appear that it was not doctrine which produced the separation, but violations of the discipline, yet their own clients fully admit the point for which we contend, viz. that doctrine is at the foundation of this schism. It is in vain to go back to the year 1819, to the appointment of a clerk in the yearly meeting of 1827, to the preparation of the extracts by the meeting for sufferings in 1822, or to any other period of fact, and endeavour to manufacture one or all into the cause of the schism. Here is their own admission, their own voluntary publication given to the world as the solemn declaration by which they meant to stand or fall. We have only to point you to that, to answer all that has been said about violations of the discipline; the party must stand or fall by it, there is no possibility of escape. It is the standard by which they must be tried; a standard too of their own erection. A party cannot publish to the world one state of facts, and then come before the court and rely on another state of facts. It is proved then by their own voluntary confession that the controversy was about doctrines, and that this produced the separation. I shall presently inquire what the doctrines were which the "Hicksite" party held to be sound and edifying, and which the others pronounced to be unsound and spurious. I might refer the court to a great body of evidence in the depositions of the witnesses, proving the same position, but when we are in possession of a document so full and explicit, and coming from the party themselves, it is infinitely superior to the testimony of any witness. There is, however, one part of the evidence to which I will call your attention. Abraham Lower, one of their own witnesses, a "Hicksite" preacher, infected with their new doctrines, and who has taken a very active part in the secession, he informs us that the diffi-

culties and divisions in the society did arise from doctrines. As this is the testimony of one of their leaders, and very short, I beg leave to read it. The witness having stated that the address of the "Hicksite" party in fourth month, 1827, was united with and issued by their meeting, this question was asked—"That address in alluding to the circumstances which interrupted the unity of the yearly meeting, and produced a division, describes, as one of the causes, in these words, 'doctrines held by one part of society and which we believe to be sound and edifying are pronounced by the other part to be unsound and spurious. From this has resulted a state of things that has proved destructive of peace and tranquillity, and in which the fruits of love and condescension have been blasted, and the comforts and enjoyments even of social intercourse greatly diminished.' Will you please to state what these doctrines are to which the address here alludes?" The witness answers, "I think it not very likely that I shall." But the circumstances stated I believe to be matter of fact. It was on account of doctrines that that body of elders were organized as a party against Elias Hicks; who were as before stated a part of that caucus held at the close of the meeting for sufferings. The same individuals who were most active in producing the rupture that then occurred in that unwarrantable attack upon Elias Hicks, and more indirectly, though really, upon the monthly meeting of Jericho, of which Elias Hicks was a member, and had given him a certificate of its unity with him, which of *course* included their approbation of the doctrines he preached, and of Westbury quarter, of which Jericho monthly meeting was a branch, and of the yearly meeting of New York. It was on *doctrines* that Joseph Whitall arraigned him before that self-constituted body who thus arrayed themselves in opposition to Elias Hicks, and those who approved of him," &c. Vol. I. Ev. p. 473, 4.

Here is a candid admission by one of their own preachers, a member of the junto with whom the idea of separation originated, that doctrine was the ground of separation, and that it was on account of Elias Hicks' doctrines, that the elders of Philadelphia, against whom so much complaint has been made, took the steps they did in reference to him.

My next inquiry is, what are the doctrines held by one part of the society, and which they believe to be sound

and edifying, but which the other part pronounce to be unsound and spurious. The answer to this inquiry is already so obvious, that any remark of mine would seem almost superfluous. Your honours will perceive that Elias Hicks and the opposition to him and his doctrine, is the great burden of complaint with all the witnesses of that party; their whole cause rests on him and his doctrines. But here we are met with another difficulty; the learned gentleman who preceded me, gravely assures us that the society of Friends have no doctrines; that the only thing necessary with them is a belief in the light within. Is it not a most astonishing thing; will any man believe it, that this society should be contending about doctrines, that this controversy should actually be carried to such an extent as to produce a severance of the society, and yet that they should have no doctrines about which to contend? Have they doctrines to dispute about, to divide, to sever them, and yet no doctrines to unite in, for the worship of God? Can any man credit such a contradiction as this? A society holding no doctrine, nothing but a profession of the inward light or divine spirit, leaving every man to believe and worship as he thinks fit, with no faith, no rule or test of conscience, or judgment in matters of belief, and yet this very society disputing, contending, and even separating about doctrines! Can they suppose they will ever convince this court, or any man, of the truth of this allegation? No. The facts are too stubborn; if they have doctrines to dispute about, we want to find out what they are. If they differ on points of faith, if the schism has arisen from this cause, one party must have embraced new doctrines, while the other party adhere to the ancient principles of Friends. Here, then, we have clear ground for the position we have taken before the court. What were these doctrines? Was it the doctrine of the influence of the divine spirit on the mind of man? This is not pretended by any witness. It is no where alleged that this formed the subject of controversy. No. It was the doctrines of Elias Hicks—the doctrines promulgated by him to the world—which he communicated in his letters, and in his public testimonies to those who assembled to hear him, declaring the discoveries he had made, the changes which his views had undergone, and the sentiments he then entertained. It was the doctrine of Elias Hicks, which his party considered sound and edifying, and

which the other part of the society pronounced to be unsound and spurious. The evidence of their own witnesses must satisfy any man, that no other doctrine but Hicks's could have been the subject of controversy. They do not pretend that the "Orthodox" hold any doctrines which are unsound or spurious, or which they, the "Hicksite" party, have ever pronounced to be so. The difference must therefore be respecting *their own* doctrines; the doctrines of Elias Hicks. Our object, then, is to discover what these doctrines are, about which the difficulty arose, to show that they are not the doctrines of the society of Friends, but that they have been pronounced by it to be unsound and spurious. It is not necessary that we should put our finger on the precise article of faith which formed the point of dispute; it is enough if the "Hicksite" party hold doctrines differing from the doctrines of the society of Friends, if this fact is made out, all is ascertained which is requisite for the decision of this cause.

The whole argument of the opposite counsel turns on this one position; they endeavour to protect and shelter themselves under the idea that their doctrines cannot be tested and shown to be contrary to those of ancient Friends, because, as they allege, the society have no creed, or written articles of faith; this is their whole dependence. They place themselves upon this ground, and if they cannot maintain themselves here, they have no ground whatever to stand upon. But before they took this position, they ought first to have satisfied the court, that the religious doctrines of a society cannot be arrived at, unless they have certain written articles of faith, publicly known and subscribed. I have never before heard any such principle contended for. I have never understood that if you come into court to ascertain the principles of a sect or party, or any other fact, that you must of necessity show written proof. If there were no written standard at all, yet if we could show by witnesses that they have a public approved minister or teacher, who is communicating to them doctrines destructive of the fundamental principles of the Christian religion, do we not then show fully that the congregation are tinctured with his principles? And if they remain with him, attend upon his ministry, and officially declare their approbation of him, are they not to be considered as holding his doctrines? Is it necessary, in order to enable men to join in

the worship of their Creator, that they should have a written creed? If they unite in the great fundamental doctrines of our holy religion, it is sufficient, whether they have a creed or not. It is usual, I admit, to have them; but is it essential? May not their rights be as well protected without as with it? The question is not whether the society has a creed, but whether they have certain known and fundamental doctrines which they profess to hold as essential, as fundamental. We are not going to pry into the secrets of men's hearts to inquire there what their belief is; our object is, to ascertain, from their own acts, and from their own declarations, what their doctrines are. If we succeed in this, and show that those doctrines are different from the faith of the primitive Friends, we effect our object.

What is the Bible but a written creed? Is it not the creed of every orthodox christian, and if he hold doctrines different from those contained in that book, is there not a standard by which he may be tried? If then we try the doctrines of Elias Hicks, by this standard, can we find a better? The society of Friends have again and again, declared their willingness that all their doctrines should be tried by the scriptures, and that whatsoever they did or said, which was contrary thereto, should be condemned as a delusion. But when we attempt to apply this test to Elias Hicks, we find that he is unwilling to abide by it. He tells us expressly, "I am not willing that my doctrines should be tried by the scriptures, or the writings of ancient Friends." See vol. I. Ev. p. 215. He thought he knew more than all the apostles, and appears to have had a better opinion of himself, than of all the saints in the calendar. Reason, he says, is better than revelation, and revelation good for nothing, unless supported by reason.

He disclaims the revelation of the holy gospel, as a standard to be tried by. He may disclaim, but it will be in vain. The society which he founded may disclaim, but it is for this court to say, whether they have not widely departed from the doctrines and principles of the religious society of Friends, and are no longer to be considered as a part of its communion.

But we have other standards. Is not the teaching of the approved ministers of the "Hicksite" party a test of the doctrines they hold? Do we not judge men by the

company they keep? and may we not judge a congregation by the teachers they listen to, and with whom they declare themselves in perfect union? Would any congregation entertain among them, a minister of religion who preached sentiments adverse to those which they held sacred? Would they declare their union with, and approbation of his ministry, unless they held the same religious opinions which he delivered weekly, or daily, in their hearing? The counsel seem to think that in the society of Friends, an individual may preach any doctrine he pleases; that he may preach universalism, or unitarianism; or if he prefer it, he may preach trinitarian doctrine; he may select his own doctrine, and preach what he pleases. This is what the opposite party contend for; but it is impossible that any society should exist upon such principles: there never can be a religious society where the members do not unite in faith, as to their great fundamental principles. We want no better evidence of the truth of this, than the sad state of facts now before the court. Men cannot unite in worship unless they agree in faith. I mean as to the leading and essential doctrines of religion. This case proves it. What has been the consequence of a contrary state of things? and what will ever be the consequence of it? One minister holds forth one doctrine, and another minister a contrary doctrine. Opposition sermons are preached, one denying, and another advocating the doctrines of the atonement and divinity of Jesus Christ. When the circumstances took place in the meetings in Philadelphia, of which the "Hicksite" party complain as an interruption of Elias Hicks and other of their ministers; what occasioned it? It was because they had avowed and preached Unitarian doctrines. The elders felt it their duty to rise and declare that these were not the doctrines of the society, and to state to the audience what the principles of Friends on those points of faith were. Let any man seriously put the question to himself, whether he would be willing to belong to such a society, where he must be compelled to hear doctrines, which he holds most sacred, and which he believes essential to his salvation, publicly denied and reprobated. If your honours please, such a state of things is calculated to bring religion itself into disgrace. We are told by the opposite party, that it matters not what doctrines a man holds, or what doctrines he preaches in our meetings, or whether he holds no doc-

trines at all, if his moral conduct is good, and he professes to act under the influence of the Spirit. But how are we to try whether he be under the influence of a true, or of a false spirit? Is his appealing to reason to satisfy us? We all know that it is deceitful. How often does it mislead? Many who have been induced by it to imagine themselves in the right way, have found in the end that they were in the wrong. Yet there is a standard to which we may safely appeal and by which we may try doctrines, and this standard is the Bible. But this will not do for Mr. Hicks: other societies may have standards if they choose, but he, and those attached to him, and his doctrines, will have none.

But I contend that where a minister publicly communicates to his congregation or meetings, certain religious doctrines, and the society to which he belongs gives him a certificate that he is in full unison with them, at the very time that he is preaching those doctrines, and with a full knowledge of them, that society is accountable for his doctrines; the principles he advocates must be considered theirs, must attach to them, and they be held responsible for them. The society of which Elias Hicks was a member, the society which he founded, acted thus towards him. After the separation, after all the controversy respecting his doctrines, and after the schism which those doctrines had occasioned, in the year 1828, when he attended their yearly meeting at Green street in Philadelphia, they gave him a certificate declaring their full unity with him and his services, thereby identifying themselves with him and his doctrines. I refer the court for proof of this, to the testimony of Thomas Willis, vol. I. Ev. p. 112, 113, and to two of the witnesses of the "Hicksite" party, viz. Abraham Lower, vol. I. Ev. p. 468, and Halliday Jackson, vol. II. Ev. p. 167. From this evidence it is apparent that he was in full unison with this new yearly meeting, up to the time of his decease, and that they officially declared their approbation of him.

The gentlemen on the other side, seem to have taken very much the ground of Hicks himself; they disclaim all standards, every thing by which their real opinions on religious doctrines may be tested. If we want to try them by the scriptures, they reject them; if by the writings of the early Friends, they disclaim them also. Nothing will answer for them but a written creed; this they

say we have not, and therefore it is impossible for us to prove that their doctrines are not the doctrines of the society of Friends. But this is a very strange and irrational idea. Does not history give us the religious opinions of many religious societies, whose creeds, if they had any, we have never seen? Are not the different denominations of religious professors readily distinguished from each other, by persons who have never seen their respective creeds? What has produced the various denominations of professors? Has it not been a difference of opinion as respects some points of doctrine? And are the society of Friends alone an exception to this? I should like to hear the answer of the gentlemen to this inquiry. Why did Fox, Barclay and Penn, leave the established church of England, if not on account of a difference of opinion on some points of faith? This was one ground of their separation, though they had their peculiar testimonies on other points besides. It is almost universally the case, that where a separation takes place in a religious society, it arises from a difference in doctrine. I could wish that the present schism, which has given rise to this cause, had been occasioned by different views of the discipline only. If there was no other ground of difference, I might hope that the wall of separation would eventually be broken down, and that the parties would again unite. But if they are divided by adverse views respecting essential doctrines of the christian religion, there is a gulph between them as impassable as that between the rich man and Lazarus. Here is their misfortune; this is the rock on which they have split. Neither party can expect the other to surrender the doctrines they hold, and they must therefore endure all the evils which result from this painful state of things.

I think the gentlemen spoke without book, when they told you that the society of Friends had no doctrines which can be proved. I think it can be shown, that they have doctrines which are essential and fundamental, even from the book of Discipline, by which they profess to be governed. As I said before, we have many standards, and I think we may find such standards in the book of Discipline, in their Catechism and Confession of Faith, in those works which have been approved and published by the society, for the purpose of setting forth their principles, and also in the declarations of faith sanctioned and issued

by the society. If these cannot be considered as sufficient evidence of their doctrines, I know not what can. The introduction to the book of Discipline, sets forth the object for which it was instituted; declaring that they "have been engaged to meet together for the worship of God in spirit, according to the direction of the holy law-giver; as also for the exercise of a tender care over each other, that all may be preserved in *unity of faith* and practice," &c. How is it possible, I would ask, that the members of this society should be preserved in unity of faith, if this society has no faith, no doctrines that can be proved, or if, as the gentlemen say, every member is to hold what religious opinions he pleases? I will now refer the court to page 23 of the book of Discipline, where we find the following: "If any in membership with us shall blaspheme, or speak profanely of Almighty God, Christ Jesus, or the Holy Spirit, he or she ought early to be tenderly treated with for their instruction, and the conviction of their understanding, that they may experience repentance and forgiveness; but should any, notwithstanding this brotherly labour, persist in their error, or deny the divinity of our Lord and Saviour Jesus Christ, the immediate revelation of the holy Spirit, or the authenticity of the holy Scriptures, as it is manifest they are not one in faith with us, the monthly meeting where the party belongs, having extended due care for the help and benefit of the individual, without effect, ought to declare the same, and issue their testimony accordingly."

Now does not the book of Discipline, in these passages, clearly require that the members should be in unity of faith? It is the very language used. It declares, respecting those who deny the divinity of Christ, or the authenticity of the holy scriptures, that it is manifest they are not one in faith with the society, and therefore they ought to be dealt with, and if not reclaimed, they should be disowned. Here is a full recognition of the belief of the society in the divinity of our Saviour, and in the authenticity of the holy scriptures—that these are fundamental doctrines—and that those who persist in a denial of them, are to be disowned. The gentleman who preceded me has told us that all that is to be found in this little book may be taken as true. We have enough here, then, of the doctrines of the society of Friends, to show what they hold, and have ever held to be fundamental. We do not con-

tend that those who unite for the purpose of social worship, must agree in all matters of religious opinion, but we do hold that they must unite in regard to all cardinal principles—the fundamental doctrines and great landmarks of the christian religion. If they differ in these, it will disunite and drive them to different places of worship.

In page 12 of the same book, I find the following language: "This meeting doth earnestly exhort all parents, heads of families, and guardians of minors, that they prevent, as much as in them lies, their children, and others under their care and tuition, from hearing or reading books and papers tending to prejudice the profession of the Christian religion—to create *the least doubt* concerning the authenticity of the holy scriptures, or of those saving truths declared in them, lest their infant and feeble minds should be poisoned thereby, and a foundation laid for the greatest evils." And again in page 100, "We tenderly and earnestly advise and exhort all parents and heads of families, that they endeavour to instruct their children and families in the doctrines and precepts of the christian religion, as contained in the scriptures; and that they excite them to the diligent reading of those excellent writings, which plainly set forth the miraculous conception, birth, holy life, wonderful works, blessed example, meritorious death, glorious resurrection, ascension, and mediation of our Lord and Saviour Jesus Christ; and to educate their children in the belief of these *important truths*, as well as in the belief of the inward manifestation and operation of the Holy Spirit on their own minds, that they may reap the benefit and advantage thereof, for their own peace and everlasting happiness; which is infinitely preferable to all other considerations."

These passages not only show what great importance the society of Friends attach to the belief of these doctrines, but they evince that they considered them as fundamental, as all-important to their members, and that whatever tended to create *the least doubt* concerning them, was laying the foundation for the greatest of evils. We have here, I think, from the book of Discipline itself, a full and most comprehensive creed—an acknowledgment of all the essential articles of the christian faith—and incorporated, too, in the code of laws agreed upon by the yearly meeting itself, for the government of its subordinate meetings and its members. But I will refer the court to

another passage in page 95 of the same book. It appears to me that this religious society have taken uncommon pains to preserve their members in the unity of faith. There is no religious body with which I am acquainted, whose discipline has so carefully guarded against the introduction of unsound doctrines. They have adopted one method different from all other denominations, and which, if carried into effect, must produce unity in religious opinion. They require that the quarterly meetings should answer certain queries, at stated periods, in order that the yearly meeting may be informed what is the state of every quarter under its charge. One of these queries addressed to the select meetings is in these words. "Second query. Are ministers sound in word and doctrine?" Can your honours point me to such a provision as this in the discipline of any other religious society? Has any other denomination of christians ever taken so much pains to preserve its ministers sound in word and doctrine, and to prevent its members from being contaminated by the preaching of unsound principles? I know of none. Now is it not most strange that this society should be at all this pains and care—that they should so scrupulously guard against the inroads of antichristian doctrines or principles adverse to their faith—that they should call upon their quarterly meetings to answer whether their ministers are sound in faith, and yet, as the opposite counsel allege, have no ascertained faith—no doctrines by which they can be tested? How are they to answer? Suppose they answer that they are unitarians. According to the gentleman's ideas this would not make them unsound in doctrine, nor would the avowal of any other belief. It is in vain for him to say that the society of Friends have no articles of faith—no written creed. They have well defined and settled doctrines—doctrines that are fundamental, and for the disbelief of which, their members may be disowned. We come here to try the "Hicksite" party by these doctrines, the acknowledged doctrines of the primitive Friends. If that party hold these doctrines, we have no ground of complaint against them. But if they do not, if they have separated on the ground of a difference respecting these doctrines, then they must abide by the consequences.

But I go further. In a Treatise on Church Government, written by Robert Barclay, one of the most emi-

nent of the early Friends, when describing the system of church government in the society of which he was one of the founders, we find him laying down principles on the subject of unity in doctrines about which there can be no mistake. In page 53 of this work, he says, "As to the first, whether the church of Christ hath power in any cases that are matters of conscience, to give a positive sentence and decision, which may be obligatory upon believers, I answer affirmatively, she hath; and shall prove it from divers instances both from scripture and reason. For first, all principles and articles of faith which are held doctrinally are, in respect to those that believe them, matters of conscience. We know the Papists do, out of conscience, (such as are zealous among them) adore, worship and pray to angels, saints, and images, yea, and to the eucharist, as judging it to be really Christ Jesus, and so do others place conscience in things that are absolutely wrong. Now I say, we being gathered into the belief of certain principles and doctrines, without any constraint or worldly respect, but by the mere force of truth upon our understandings, and its power and influence upon our hearts; these principles and doctrines, and the practices necessarily depending on them are, as it were, the *terms* that have drawn us together, and the *bond* by which we became centered into one body and fellowship, and distinguished from others. Now if any one or more, so engaged with us, should arise to teach any other doctrine or doctrines, contrary to those which were the ground of our being one; who can deny but the body hath power in such a case to declare, This is not according to the truth we profess; and therefore we pronounce such and such doctrines to be wrong, with which we cannot have unity, nor yet any more spiritual fellowship with those that hold them. And so such cut themselves off from being members, by dissolving the very bond by which they were linked to the body. Now this cannot be accounted tyranny and oppression, no more than in a civil society, if one of the society should contradict one or more of the fundamental articles upon which the society was contracted, it cannot be reckoned a breach or iniquity in the whole society to declare that such contraditors have done wrong, and forfeited their right in that society; in case by the original constitution, the nature of the contradiction implies such a forfeiture, as usually it is,

and will no doubt hold in religious matters. As if a body be gathered into one fellowship, by the belief of certain principles, he that comes to believe otherwise, naturally scattereth himself; for that the cause that gathered him, is taken away; and so those that abide constant in declaring the thing to be so as it is, and in looking upon him, and witnessing of him to others, (if need be) to be such as he has made himself, do him no injury. I shall make the supposition in the general, and let every people make the application to themselves, abstracting from us; and then let conscience and reason in every impartial reader declare, whether or not it doth not hold. Suppose a people really gathered into the belief of the true and certain principles of the gospel, if any of these people shall arise and contradict any of these fundamental truths, whether have not such as stand, good right to cast out such an one from among them, and to pronounce positively, This is contrary to the truth we profess and own, and therefore ought to be rejected and not received, nor yet he that asserts it, as one of us. And is not this obligatory upon all the members, seeing all are concerned in the like care as to themselves, to hold the right and shut out the wrong. I cannot tell if any man of reason can deny this; however, I shall prove it next from the testimony of the scripture." Barclay's *Anarchy of the Ranters*, pp. 53 to 56.

Here are the sentiments of one of the primitive Friends, when speaking of the system of government adopted by the society. This book has been recognized as a standard work by the society everywhere. It has been published and republished by them, by the yearly meeting of Philadelphia, and looked up to, as describing the government to which they must submit, and by which they must be bound. In this work it is clearly laid down, that they have certain fundamental doctrines, and that if a man preach other doctrines contrary to, or incompatible with those fundamental principles, they are bound to drive him from them, to disown him and his doctrines. They are bound by their duty to God, and by their duty to their fellow men, to do so. What! are they to hear one of their members openly deny the divinity and atonement of their Saviour, when they themselves hold those doctrines to be among the bonds, the fundamental principles which unite them together, and yet to take no measures to disown such members or to prevent the preaching of such

doctrines! The gentleman must show not only that they have no fundamental doctrines, but that they have no church government—no control over their members—no standard to ascertain whether they were right or wrong in the doctrines they promulgate. Barclay clearly points out the course which the “Hicksite” party ought to have taken. They came into the society on the ground of unity of faith, professing certain doctrines, and if they became convinced that these doctrines were wrong, or that other principles were better, they ought to have left the society peaceably and quietly—to have acknowledged that they had departed from the terms of the contract, broken the bond which united them to it. Here is the principle upon which they ought to have withdrawn. In the language of Barclay “they scattered themselves” from the society, and they ought to have left it. This evidently was their first intention; but when told that by thus withdrawing they would lose the property of the society, they take another ground. And notwithstanding all they have said and done to promote Elias Hicks and his principles—notwithstanding the whole burden of their complaint is made up of the opposition to him and his doctrines, they now wish to deny their leader as they have denied their Saviour.

In page 57. of the same book, Barclay says; “If the apostles of Christ of old, and the preachers of the everlasting Gospel in this day, had told all people, however wrong they found them in their faith and principles, Our charity and love is such, we dare not judge you, nor separate from you; but let us all live in love together, and every one enjoy his own opinions, and all will be well; how should the nations have been, or what way can they now be, brought to truth and righteousness: would not the devil love this doctrine well, by which darkness and ignorance, error and confusion, might still continue in the earth unreprieved and uncondemned.” And again in the next page the same author says, “Were such a principle to be received or believed, that in the church of Christ, no man should be separated from, no man condemned or excluded the fellowship and communion of the body, for his judgment or opinion in matters of faith, then what blasphemies so horrid, what heresies so damnable, what doctrines of devils, but might harbour themselves in the church of Christ? What need of sound doctrine, if no

doctrine make unsound? What need for convincing and exhorting gainsayers, if to gainsay be no crime? Where should the unity of the faith be? Were not this an inlet to all manner of abomination, and to make void the whole tendency of Christ's and his apostles' doctrine, and render the gospel of none effect; and to give a liberty to the unconstant and giddy will of man, to innovate, alter, and overturn it at his pleasure? So that from all that is above mentioned we do safely conclude, that where a people are gathered together unto the belief of the principles and doctrines of the gospel of Christ, if any of that people shall go from their principles, and assert things false and contrary to what they have already received, such as stand and abide firm in the faith, have power by the spirit of God, after they have used christian endeavours to convince and reclaim them, upon their obstinacy, to separate from such, and to exclude them from their spiritual fellowship and communion: for, otherwise if this be denied, farewell to all christianity, or to the maintaining of any sound doctrine in the church of Christ." Barclay, &c. pp. 57-59.

Here then we have the sentiments of Robert Barclay, one of the founders of the society, as to the consequences which would result from the principle which the gentlemen on the other side contend for, permitting every man in the society to hold what religious opinions he pleases, without accountability and without restraint. He shows in strong terms the evils and confusion which would arise from it, and the impossibility of maintaining any christian society where such a principle is tolerated. We find then, that the society has certain fundamental doctrines, which are the terms of their communion, and the bond which binds them together; that they have a system of church-government; that this government extends to the preservation of their members in the belief of these principles, and that a denial or disbelief of them forfeits their membership. If their ministers or members undertake to promulgate false doctrines, they may, nay, it is their duty, to exclude them from the society, if they persist in it. In conformity with the principles laid down by Barclay, as well as with its discipline, the society has been in the constant practice, from the earliest periods of its history, of disowning those who held and promulgated unsound doctrines. For proof of this, I refer to the evidence of Samuel

Bettle, vol. I. Ev. p. 60. William Jackson, Ib. p. 99. Thomas Willis, Ib. p. 108. Samuel Parsons, Ib. p. 170, 171. Thomas Evans, Ib. p. 305, 306. We were told by the gentleman yesterday, that if Hicks held these doctrines, he ought to have been dealt with by the monthly meeting of Jericho, that they might advise him, but if he did not choose to take their advice (as I understood him) they could deal no further with him. Barclay does not hold such language as this, but directly the contrary; and we have already shown that the monthly meeting of Jericho, could not, and would not, deal with him, because they had embraced his doctrines and held them to be sound. It is true that the society of Friends have been cautious in the selection of terms when declaring their belief on the mysterious doctrines of the christian religion, and have rejected some of the school terms which are in common use, preferring to express themselves in the language of the holy scriptures, as being most proper and becoming. On this ground it was that they objected to the creeds and forms of faith which were commonly used when the society took its rise, and not because they did not hold the doctrines intended to be expressed in them. The society was frequently called on to come forward and make known the religious principles which they held; they did so, and declared their belief in terms which cannot be mistaken. And now, to tell us that there is no test by which they can determine whether a preacher maintains sound doctrine or unsound, is contrary to the express letter of their discipline, to all the sentiments of the society, and to these acknowledged declarations of their doctrines which have existed, and been universally received among them, for a century and a half.

Wednesday, afternoon—3. P. M. My present object is to show that the unfortunate difference which exists between the parties now before the court, respects doctrines. To show what the doctrines of the ancient Friends, and which the society still holds are, and also the difference which exists between them and the doctrines held and promulgated by Elias Hicks and embraced by his adherents. I have endeavoured to show that the society of Friends hold certain doctrines which they consider fundamental, and for the disavowal of which their members may be disowned and put out of their community. It has been asserted by the gentleman on the opposite side, that this

society as a body had never published any declaration of their faith to the world, except it was in the express language of scripture, and we were challenged to produce any such document or authority. It was admitted by the gentleman, at the time the challenge was given, that if we could produce such a document, written in human language, to use his phrase, he would concede that it was a creed, and binding on the members of the society. I shall now undertake to prove that the society of Friends have done this; that they have issued such a document, and if I do so, then the gentleman on his own ground stands fully committed. I understand him to assert that the society never have done this, except in scripture language; that there is no document which we can produce, as an authentic act, authorized by them, containing a declaration of their faith in human language. In order to prove that publications of this kind have been made under the sanction of the society, as a community, I shall refer first to the declaration of faith, contained in the 2nd vol. Sewel's History, p. 472, et. seq. This declaration was issued in 1693, in order to set forth before the world, what the doctrines of the society were. If I am not much mistaken, this document will furnish a complete answer to the challenge which has been given by the gentleman on the other side. It was published under the sanction of the society, and approved by them. It is not written in scripture language, but in human language. It was not only examined and approved in London, by the meeting there, which is authorized by the discipline to make such publications, but it has been adopted by the yearly meeting of Philadelphia, and sanctioned and approved by it. I refer to the testimony of Thomas Evans, vol. I. Ev. pp. 288, 297, for proof of this fact. In this declaration we find the following language, viz. "We sincerely profess faith in God by his only begotten son Jesus Christ, as being our light and life, our only way to the Father, and also our only Mediator and Advocate with the Father. That God created all things, he made the worlds by his Son Jesus Christ, he being that powerful and living Word of God by whom all things were made; and that the Father, the Word and Holy Spirit are one, in divine being inseparable, one true living and eternal God, blessed forever. Yet that this Word or Son of God, in the fulness of time took flesh, became perfect man, according to the flesh, descended and

came of the seed of Abraham and David, but was miraculously conceived by the Holy Ghost and born of the virgin Mary. And also further declared powerfully to be the Son of God, according to the spirit of sanctification, by the resurrection from the dead. That in the Word or Son of God was life, and the same life was the light of men; and that he was the true light which enlightens every man coming into the world; and therefore that men are to believe in the light that they may become the children of the light. Hereby we believe in Christ the Son of God as he is the light and life within us; and wherein we must needs have sincere respect and honour to, and belief in Christ, as in his own unapproachable and incomprehensible glory and fulness, as he is the Fountain of life and light, and Giver thereof unto us; Christ as in himself, and as in us, being not divided. And that as man Christ died for our sins, rose again, and was received up into glory in the heavens: he having, in his dying for all, been that one great universal offering and sacrifice, for peace, atonement and reconciliation between God and man; and he is the propitiation, not for our sins only, but for the sins of the whole world. We are reconciled by his death, but saved by his life.

“That Jesus Christ, who sitteth at the right hand of the throne of the Majesty in the heavens, yet he is our King, High Priest, and Prophet in his church, the Minister of the sanctuary, and of the true tabernacle which the Lord pitched, and not man. He is Intercessor and Advocate with the Father in heaven, and there appearing in the presence of God for us, being touched with the feeling of our infirmities, sufferings, and sorrows. And also by his spirit in our hearts, he maketh intercession according to the will of God, crying, Abba, Father. For any whom God hath gifted and called, sincerely to preach faith in the same Christ both as within us, and without us, cannot be to preach two Christs, but one and the same Lord Jesus Christ, having respect to those degrees of our spiritual knowledge of Christ Jesus in us, and to his own unspeakable fulness and glory as in himself, in his own entire being, wherein Christ himself, and the least measure of his light, or life, as in us, or in mankind, are not divided nor separable, no more than the sun is from its light. And as he ascended far above all heavens that he might fill all things, in his fullness cannot be comprehended or contain-

ed in any infinite creature, but in some measure known and experienced in us, as we are capable to receive the same, as of his fulness we have received grace for grace. Christ our Mediator received the Spirit, not by measure, but in fulness, but to every one of us is given grace, according to the measure of his gift.

“That the gospel of the grace of God should be preached in the name of the Father, Son, and Holy Ghost, being one in power, wisdom and goodness, and indivisible, are not to be divided in the great work of man’s salvation.

“We sincerely confess and believe in Jesus Christ, both as he is true God, and perfect man, and that he is the author of our living faith in the power and goodness of God, as manifested in his Son Jesus Christ, and by his own blessed spirit, or divine unction, revealed in us, whereby we inwardly feel and taste of his goodness, life and virtue, so as our souls live and prosper by and in him; and the inward sense of this divine power of Christ, and faith in the same, and this inward experience, is absolutely necessary to make a true, sincere and perfect christian in spirit and life.

“That divine honour and worship is due to the Son of God, and that he is in true faith to be prayed unto, and the name of the Lord Jesus Christ called upon, as the primitive christians did, because of the glorious union, or oneness of the Father and the Son, and that we cannot acceptably offer up prayers and praises to God, nor receive a gracious answer or blessing from God, but in and through his dear Son, Christ.

“That Christ’s body that was crucified was not the Godhead, yet by the power of God was raised from the dead, and that the same Christ that was therein crucified, ascended into heaven, and glory, is not questioned by us. His flesh saw no corruption, it did not corrupt; but yet doubtless, his body was changed into a more glorious and heavenly condition than it was in when subject to divers sufferings on earth, but how and what manner of change it met withal, after it was raised from the dead, so as to become such a glorious body, as it is declared to be, is too wonderful for mortals to conceive, apprehend, or pry into; and more meet for angels to see. The scripture is silent therein as to the manner thereof, and we are not curious to inquire, or dispute it; nor do we esteem it necessary to

make ourselves wise above what is written, as to the manner or condition of Christ's glorious body as in heaven, no more than to inquire how Christ appeared in divers manners or forms, or how he came in among his disciples, the doors being shut, or how he vanished out of their sight after he was risen." See Sewel's History, p. 475. vol. II.

Now, may it please the court, this declaration of faith has actually been adopted by this very society, and by the yearly meeting of Philadelphia. Is there not here a full and explicit declaration of their faith? Is it not a creed according to the learned gentlemen's own understanding, and upon their own terms? Can a religious denomination be more fully committed, than the society of Friends are by this document? It was adopted and published by that very society, of whom the opposite party now tell us that they have no faith, no fundamental doctrines; and it was adopted too, to put down and silence the charge of denying the divinity and atonement of Jesus Christ. The gentleman will not say that this declaration is couched in scripture language. It is in human language, to use his own expression, and therefore, according to his own showing, it is a creed, sanctioned and adopted by the society. How then can the gentleman tell us that they have no creed. We have here a full and explicit answer to the challenge he has given, and upon his own ground he stands committed. It will appear from an examination of the testimony, that this declaration of faith was not only examined and approved by the morning meeting in London, which is a body authorized to inspect and approve of writings declaratory of the religious faith of the society, but that it was also adopted and published by the society here. It stands clothed therefore with all the authority of a creed, or confession of faith, which any religious community can possibly issue to the world.

I will refer the court to another declaration of faith, contained in Sewel's History, vol. II. p. 483, issued on behalf of the society of Friends, and presented, in their name, to the British parliament, as evidence of their belief in Jesus Christ. This declaration, no more than the former, is clothed in scripture language; it is in human language; it is a solemn declaration made to parliament for the express purpose of satisfying them that the society do believe in Jesus Christ our Saviour. It is impossible to

evade it, without imputing to the society dissimulation and insincerity; this will not be attempted; it would be monstrous to suppose that the society made a declaration of this solemn nature, as evidence of their belief, and yet that they were not candid and honest when they made it. It is for the "Hicksite" party to show that these declarations do not contain the faith of the society; they stand recorded in its history, sanctioned by its meetings, and looked up to by the members as the articles of their belief. The opposite counsel referred the court to the Journal of George Whitehead for the history of another declaration of faith, the one prepared by the society, and inserted in the toleration act. It is in these words: "I profess faith in God the Father, and in Jesus Christ his eternal Son, the true God; and in the Holy Spirit, one God, blessed forever; and do acknowledge the holy Scriptures of the old and new Testament, to be given by divine inspiration." The court will see by referring to the passage, that Whitehead himself considers it a creed. The gentlemen on the other side, deny that the society have any creed; Whitehead, on the contrary, considers that declaration as such, and binding upon all the members of the society. We have heard much said about the objection of this society to creeds; but that objection was not to a creed or declaration of faith simply, nor did it arise from any unwillingness to put down in writing the fundamental principles of their belief, their objection was to temporal powers prescribing articles of faith, and compelling an assent to them, by the arm of the secular power. The society has always been willing to abide by the articles of faith, which they adopted; they never wished to have it in their power to say one thing one day, and another thing on another day. They held that all men had a right to adopt such religious opinions as they conscientiously believed to be proper, and that no earthly power ought to control them in it; but they also maintained that when any body of men adopted and published their belief, they must stand or fall by it.

It is strange, indeed, that after all the declarations of faith made by the society of Friends, after the many books published by them in order to show their real principles, it should now be contended that they have no standard of religious doctrines, that they rely solely on the operation of the Spirit, and that the Spirit dictated one thing at

one time, and another thing at another time. They refused, it is true, to admit of king, parliament, or any earthly power, to prescribe articles of faith for them, but having solemnly adopted and declared their religious principles, they never did refuse to be bound by them. Here then are three instances in which the gentleman stands defeated on his own ground, and with his own weapons. Here is a creed, authoritative and binding on the members of the society, couched, not in scripture, but in human language, adopted and published to the world as tests of their religious faith. The society, as I remarked this morning, have taken great pains that their principles and doctrines might not be misunderstood by the world. From their peculiar mode of worship, suspicions were entertained by some, that they did not adopt the Christian faith. To meet these groundless suspicions, they have repeatedly, as a body, authorized publications to be made explanatory of their belief, as may be seen by reference to the testimony of Samuel Bettle, vol. I. Ev. p. 59, 60. The witness says, "For these doctrines, [viz. the doctrines of the society of Friends] witness refers to George Fox's letter to the governor of Barbadoes, contained in his journal, to a declaration presented to a committee of the British parliament in 1689, a declaration presented to parliament in 1693, to Barclay's Catechism and Confession of Faith, and to Barclay's Apology; this latter work was originally written in the Latin language, and has been translated into different languages, and largely circulated, for the very purpose of making known the doctrines of the society. We are bound by the doctrines contained in this work, and the society is every where identified with the sentiments, opinions, and doctrines, laid down in this work. Witness also refers to "Evans's Exposition" of the doctrines of the society of Friends, as containing a true and comprehensive view of the doctrines of the society; also Barclay's "Anarchy of the Ranters," a work on church government. The witness further saith, that these works here exhibited, as well as all those mentioned by him, are regular standard works in the society of Friends, and have been acknowledged and published by them at different times, in the regular way of publication, established by their discipline. These doctrines have always been considered as fundamental, and promulgated as such by their approved ministers. They were so reputed when the wit-

ness first had knowledge of the society, and still continue to be so. These books are circulated now by the society, as containing its doctrines. A departure from, or disbelief in these doctrines, is always considered by the society as an evidence of unsoundness in the faith."

The court will perceive from the testimony of this witness, that these works have been published from time to time, by the society, as standard works, fully explaining their doctrines, and as such they have circulated them. Can we then have better evidence of their doctrines than these? That they have doctrines which they consider fundamental and essential, their discipline fully declares. Where can we find them better than in their standard works; their declarations of faith, written by the venerable and pious fathers of their church to whom they all look up as high authority. It is impossible then that there should be any truth in the idea that they have no fundamental doctrines; the evidence to the contrary is too strong and too conclusive. I beg leave also to refer the court to a publication made by the society of Friends, by the yearly meeting of Philadelphia, to be found in 4th vol. Mosheim Ecc. Hist. pp. 284-288. It is proved by Samuel Bettle, vol. I. Ev. p. 71, that this publication was made under the sanction of the society. It is called "A vindication of the Quakers" and holds this language, viz. "We believe the scriptures of the old and new Testament to be of divine original, and give full credit to the historical facts as well as the doctrines therein delivered, and never had any doubt of the truth of the actual birth, life, sufferings, death, resurrection, and ascension of our Lord and Saviour Jesus Christ, as related by the evangelist, without any mental or other reserve, or the least diminution by allegorical explanation; and there is not, nor ever has been, any essential difference in faith or practice, between Friends in Europe and America; but a correspondence is regularly maintained, and love, harmony and unity, have been preserved down to this day, and we hope and believe, under divine favour, nothing will be able to scatter or divide us."

In the same book is a publication made by the society of Friends in New England. It was deemed important that the misrepresentations of Friends contained in Mosheim, should be corrected, and the society in England having adopted this course, for this purpose, it was also adopted by the yearly meetings in New England and in

Philadelphia. These publications all took place before the present schism arose in this community. I do not propose to refer the court to all the standard works, which have been quoted by the gentleman associated with me : it would be superfluous ; but from the evidence which we have produced, I submit to the court, that the doctrine of the ancient Friends and of the society down to the present day, is fully and fairly made out to the satisfaction of every candid mind.

I shall, in the next (third) place, call the attention of the court, upon this point, to the testimony of witnesses, of respectable ministers, men who are perfectly acquainted with all the principles of the society, from their youth upwards. The first witness is Samuel Bettle. If there is any man whose station entitled him to a knowledge of the doctrines of the society of Friends, it is this witness. He has been clerk and assistant clerk of the yearly meeting, for twenty years. The witness says, Vol. I. Ev. p. 58. "The society have avoided the term trinity; they however hold the doctrine of the Fathēr, Son, and Holy Ghost, as stated in the New Testament, and they prefer confining their statements of views in relation to that doctrine, to the terms used in the New Testament. They have avoided the use of the word *person* and *three distinct persons*, as not in their apprehension scriptural, and as conveying, in their apprehension, an idea too gross for so sublime and spiritual a subject. I have always understood that in all other respects, the society hold fully the doctrine as held by other protestant sects of christians, avoiding the term *person*, being the only difference between them of which I am aware in reference to this particular doctrine.

"The society of Friends do believe in the doctrine of the atonement, and have always so believed. They believe, and what they understand by the term *atonement* is, that our Lord and Saviour Jesus Christ suffered without the gates of Jerusalem; offering himself up a propitiatory sacrifice for the sins of the whole world, and that by this offering, through faith, repentance and obedience, man may become purified from sin. Their creed on this doctrine is in the words of the New Testament; they take it as they find it. Witness uses the word *creed* here as synonymous with *belief*. It is believed by the society that in no other way than by the atonement of our Saviour can man be purified from sin. This is the way appointed

by God, that is, by the offering up the body and blood of Jesus Christ, without the gates of Jerusalem, by the efficacy of which, through faith, repentance, and obedience, remission of sins is received. This has always been fundamental with the society.

“They believe that Jesus Christ was born of the Virgin Mary; agreeably to the declaration of the evangelist John, in substance, that “in the beginning was the Word, and the Word was with God, and the Word was God;” that the Word was made flesh, or took flesh, and dwelt among men; and that this Word, that was made flesh, was the same Jesus that was born at Bethlehem, miraculously conceived and born of the Virgin Mary, for the great and necessary, and holy purposes mentioned in the New Testament, indispensable through the inscrutable counsels of God, for the salvation of man. This is also fundamental and always has been. In addition to what the witness has said above, respecting the trinity, he now further saith, that the society believe and hold, and always have so believed, that the Father, Son, and Holy Ghost, are one, these three are one; they always express it in that way.

“The society also believe in the resurrection and ascension of the body of our Lord and Saviour Jesus Christ, as it is clearly expressed and taught in the scriptures, corroborated by his speaking from heaven in his glorified state, declaring in his own words, “I am Jesus of Nazareth.”

“The society believe that the scriptures were given forth by holy men as they were inspired by the Holy Ghost, and they have always received them as the outward test and rule of doctrine, and that all doctrines which are inconsistent with the doctrines of the scripture are to be rejected. Barclay is very full and explicit on this subject, and very strong language he uses. These doctrines are the ancient doctrines of the society, and have always been held by them since my acquaintance with them. The peculiar views of the society expose them to much objection, suffering and misrepresentation. When speaking of their peculiar views, the witness does not mean particularly their doctrines above mentioned as differing so much from other societies of christians, but more particularly their testimonies against wars, oaths, and in relation to ministers, and other things, which have

exposed them to suffering and very frequently to misrepresentation. Hence, witness believes, that no religious society whatever, has published so frequently, and so fully, their religious doctrines to the world, as the society of Friends, and this has arisen out of the peculiar circumstances in which they were placed, as I have mentioned." It is unnecessary for me to go through all the evidence on this subject. I will therefore only refer the court to the passages, viz. William Jackson, vol. I. Ev. p. 98, 99; Thomas Willis, Ib. p. 108, 109; Joseph Whitall, Ib. p. 213; Thomas Evans, Ib. p. 291 to 306.

These witnesses express fully the belief of the society in the inspiration of the holy scriptures, in the divinity and atonement of Jesus Christ, and in the doctrine of the trinity substantially; though they do not make use of the word *trinity* or *person*, they take the scripture language and adopt it without any attempt at explanation by them. In this respect I think they have been wise. It is impossible for man to comprehend this solemn and mysterious subject. It is above human comprehension. We know nothing of the nature of God, or of the mode of his existence except what he has been pleased to reveal. He has revealed all that it is necessary for us to know, and for man to undertake to examine into the nature of the Godhead beyond that, is presumptuous; perhaps even the angels in heaven do not understand it. It is beyond the comprehension of finite man. This attempt to define the nature of the trinity, has produced more controversy than any other subject. I do not mean as to the fact of the existence of the three, but as to the manner of their existence and the nature of their connexion. The Friends therefore reject the use the words trinity and person. The word trinity, I believe was not used till the second century, but from that time to the present, controversies have continually arisen, not as to there being three, or these three being one, but as to the mode and manner of it.

It is certainly true that men cannot be expected to entertain the same opinions as to all points in matters of religion any more than in human affairs; but they must unite in all the essentials of the religion they profess, in order to worship harmoniously. They cannot exist as a religious society, they cannot unite in fellowship and communion, unless they agree as regards all the leading and

fundamental principles of the christian religion. It is sufficient, then, for us to show, that the society of Friends do believe, and always have believed, in the doctrine of the three that bare record in heaven; in the divinity and atonement of the Lord Jesus Christ; that the scriptures were written by inspired men; that those who penned them were guided by a divine influence, and that they were given for our instruction and correction. They hold these doctrines to be the great fundamentals of the christian religion, and I believe I may say that the great mass of christians so believe them; for although some sects in modern times have questioned some of those doctrines, yet few, very few, have doubted the authenticity of the sacred scriptures. When, therefore, we prove by witnesses, as well as by written documents, that the society does unite in these fundamental principles, we must take them as their received and standard doctrines, the test by which their members must stand or fall. I think I need not dwell longer on this branch of the subject. I have now a more unpleasant duty to perform; to show that these fundamental doctrines of the christian religion are rejected by Elias Hicks and his adherents.

I shall undertake to prove, first, from the testimony of witnesses, that Elias Hicks denied these general doctrines, not only in conversation, but in his public ministry, in the meetings of the society. He denied the authenticity and authority of the holy scriptures, and a belief in the doctrines of the divinity and atonement of our Saviour. He divided between Jesus and Christ, asserting that Jesus was a mere man, as any other good man, and that Christ was the divine spirit by which he was actuated, that this divine spirit is given to every man as it was to Jesus, that Jesus having a greater work to perform, had five talents committed to him, that is, greater gifts of the spirit than most men, but that he had no more than just what was necessary to finish his work, and every man has as much as he, in proportion to the work required; he admitted him to be perfect, but still held that he was only a fallible man.

Upon these points I shall refer in the first place to the testimony of William Jackson, vol. I. Ev. p. 100. Witness says: "It was the common report, that Elias Hicks was in unity with, and accepted by the Green and Cherry Street meetings, I understood it so. I have held a con-

versation with Elias Hicks, on the subject of the divinity of our Saviour, and the divine origin of the scriptures. The conversation arose from this circumstance; I was at a meeting in New York, and in the course of what he said there, in his public testimony, in a public meeting for worship, he uttered such sentiments as I never heard from any Friend in the whole course of my life. The substance of it, or that part that affected me most, was the manner in which he expressed himself with respect to our Saviour, bringing him down to the level of a man, saying, that "he was put to death by the hands of wicked men, and suffered as a martyr, as many others since that time had done." Never having heard such sentiments delivered either by professor or profane, I thought it my duty, as a brother, to go to his house, and have further conversation with him on the subject; accordingly I went a few days after, and had an opportunity with him; I don't recollect that there were any persons present but ourselves. I let him know my uneasiness, and we had considerable discourse on the subject. I cannot now pretend to remember, so as to relate all of it, but so far he went, as to assert, that there was as much scripture testimony to prove that he was no more than the son of Joseph and Mary, as there was to prove to the contrary." I brought forward the testimonies of the two Evangelists, Matthew and Luke, and he said that they were but fables, or fabulous; that "they were no more than fables." I was exceedingly astonished at him, for, as I said before, I had never heard such language from either professor or profane. He said he was confident of what he said, it was a thing impossible, spirit only could beget spirit, it could not beget material matter. I said some things in objection, but cannot recollect what I said. In the course of the conversation, he further said: "It is believed God is a Spirit, Dost thou believe it, I believe it. Spirit can only beget spirit;" and repeated it several times, asserting that he was as confident of it, as that he was standing there, talking with me. Then I said to him, "Elias, if this be thy belief, how came the creation of the world?" His answer to my question was, "What of the creation?" I said to him, "Why, the account of the creation we have in the bible." Then he replies to me, "Why that's only Moses's account." Then I replied to him, "Is it not a sufficient account for us to believe?" His answer to that

was, "*It is but an allegory;*" and there the conversation ended."

If this is not denying the holy scriptures, and destroying the christian's faith in them; if it is not denying the miraculous conception of Jesus Christ, and making him a mere man, I know not what is.

I refer the court in the next place to the evidence of Thomas Willis, vol. I. p. 109. He says, "I was acquainted with Elias Hicks from my youth up, embracing a period of more than forty years; he was a member of the same monthly meeting with myself. He is not now living, was not a member of the society of Friends at the time of his death; he had been disowned by them. The causes of his disownment were, a departure from the doctrines and principles of the society, and an avowal of antichristian sentiments. The time of his disownment was in the year 1829, in fifth month. He had for a number of years before his disownment, and on different occasions, uttered sentiments and doctrines that gave uneasiness to the society. I have a copy of the minute of his disownment, which is taken from the minutes of the monthly meeting to which he belonged, being the monthly meeting of Westbury and Jericho. For some time before his disownment, for a number of years, he had been frequently, and at various times, privately admonished by different individuals on the subject of his departure. In regard to myself, in former years, I esteemed him highly as a minister, and a useful member of society, and although I sometimes heard expressions and some sentiments avowed by him, with which I could not unite, yet from the esteem I always had for him, and the confidence which I had placed in him, I was very loath to believe a want of integrity, and soundness on his part, until about the years 1818 and 20. When observing that he had embraced and began to promulgate some views, that were not in accordance with the doctrines of our society, I became seriously uneasy, and endeavoured to discharge my duty towards him accordingly. In consequence of this uneasiness I waited on him. The interview resulted rather in the confirmation of my uneasiness. In general, I perceived his view and belief of the scriptures to be not in accordance with the doctrines of our society, placing them on the same ground as any other history, exciting doubts of some important truths declared in them, particularly in relation to the divine character and

holy offices of our blessed Redeemer, his miraculous conception, the efficacy of his sufferings and death as a propitiatory offering for the sins of mankind, his intercession and mediation as our Advocate with the Father. These were the principal points of doctrine. In relation to the character of our blessed Lord, he has placed him on the same ground as other men. I have heard him testify in public meetings, that "Jesus assumed nothing more to himself than other prophets did, that he was very careful not to do it, saving in a few instances calling himself the Son of God, that as he steadily kept in view his entire dependent state, he never called the people to himself, but only directed them to the Spirit of Truth in their own minds; and that this is all we want, for when we once come to believe in this, then instrumental helps have done all they can do for us, their usefulness is very soon at an end with the true christian, he is brought to the foundation, he needs them no more; although we value the scriptures which are written and bound up in the book we call the bible, as well as other scriptures written by other wise and good men, yet the scriptures do not properly belong to any, but those to whom they were written; they are so far from being any rule to the true christian, that they are inconsistent and contradictory to themselves, and there is not an agreement in them in any general way." Similar views of the scriptures have also been promulgated by him in conversation and by writing, and he has acknowledged his departure from the belief of the society respecting them, by saying, that his conscience had often smitten him when he had been endeavouring to hold up the belief of the society of Friends respecting them, in setting them so far above other books. He has represented them as being the principal cause of the apostacy in the primitive church, and that they were not useful in bringing about the reformation, and in fine that they have been the cause of fourfold more harm than good to christendom since the apostle's days. These and similar views respecting the scriptures, being promulgated by him, were, among others, introduced into my own family, by letters directed to my wife, which I have now with me, in his own hand writing."

Again in p. 111: "These sentiments which had been thus propagated by Elias Hicks in his public discourses, in his letters and conversations, were in violation of what

has always been held to be fundamental upon those points, by the society of Friends. I have a recollection of his expressions on those subjects, on various occasions. I have heard him declare in public, when speaking on the character and constitution of our Saviour, and in allusion to his miraculous conception, "that flesh must unite with flesh to make a being, but flesh and spirit never can unite." "God can create, but he cannot beget." "The Son must be of the same nature with the Father." I have also frequently heard him express his views on the subject of the atonement. In relation to the sufferings or offering of Christ, he said that he could not believe that it was an offering designed by the Father, but that circumstances led to it in the same manner as they had done in the case of many other martyrs. I have heard him use similar expressions many different times. He continued to promulgate these sentiments in his public ministry up to the time of his disownment, and was disowned for that cause. He was a man to whom society generally was very much attached in former years, whereby he gained great influence in the society. I believe his popularity as a preacher was owing in a considerable measure to the boldness of his conceptions, and originality of thought. Although he was not disowned for his unsoundness until lately, yet his departure from our principles was a subject of general conversation and remark in the society for several years. He had been the subject of admonition and care, on the part of some of the elders of his own meeting, for a long time before his disownment, but most of the elders of his own meeting, were his adherents. This departure of his, was extensively spread through the society, and it was a subject of general remark and conversation in other yearly meetings, beside that to which he belonged."

I shall next refer the court to the testimony of Samuel Parsons, Vol. I. Ev. p. 173. He says, "The unsound opinions and doctrines promulgated by Elias Hicks, and for which he was disowned, were generally in relation to the holy scriptures and the character of the Saviour. In relation to the character of the Saviour, I have heard him express in his public communications, the following sentiments: "The people must be totally turned from any attention to the outward manifestation or sufferings of Jesus, the Messiah of the Jews, the design of whose coming was to put an end to the law of Moses and its ordinances.

He was an Israelite, and was not furnished with any more ability than the other Israelites." "Jesus never gave himself a higher character than the son of man." "There is no mediator betwixt God and man: it would be unreasonable to believe that he had ever directed one Son of God to reveal his will to all the other sons of God." "Jesus was the first Son of God; mentioning the name of Jesus Christ is a species of idolatry." "We can all attain to the same state that Jesus did, to be equal with God, as the sons of a family are equal with the father who takes counsel with them. It was never designed nor intended that he should suffer death by men, for what man would be saved by the blood of an innocent brother!" "With regard to the Almighty's speaking by his Son, what kind of a father, would that be, that would speak to his children by his eldest son, instead of speaking directly to them." "He was inferior, seeing there could be but one that had no beginning, and that was the Almighty." "With regard to the miracles which he wrought, it was the weakest evidence which could be afforded, only suited to that low dispensation, and was no evidence to us; if there would be any use in it, men might work miracles now."

"On the subject of the holy scriptures he said, "The scriptures say, one one thing, and one another, and it cannot be ascertained from them, whether Jesus was the son of Joseph or not;" "there were *thirty gospels* written, and these we have left, were selected in the dark night of apostacy." "The scriptures may be, and no doubt are, in the early part of a religious life, yet as pointing to something better; they are of no use when an advanced state is attained to. Amidst much good, there is a great deal that is otherwise; the narratives of the evangelists are full of inconsistencies with each other; it had been better if there had been only one, and then it could not, at least, have been charged with inconsistency; there was but one copy formerly extant, which the Pope got and modelled to his mind." "There is no reliance to be placed on books or men, all outward means are to be rejected, and all external miracles had no effect in promoting the gospel." These sentiments were publicly expressed by him in the meetings of the society, and for persevering in preaching and teaching them, he was disowned. After his disownment he was generally reputed to be in full unity with the

meeting in Green street, and that spoken of in New York, in correspondence with it, and was an accepted minister with them; it is well understood to be the case."

I refer also to pages 142, 143. 150. 160, 161. of the same evidence; to the evidence of Joseph Whitall, Ib. pp. 214, 215. This witness is very explicit; he says, "For several years previous to 1822, I had no opportunity of hearing him [Elias Hicks] publicly. But at the time of the yearly meeting in that year, in a public meeting on first day immediately preceding the yearly meeting at New York, he uttered these remarkable words, "that the same power which made Christ a christian, must make us christians, and the same power that saved him must save us." I never before had heard such sentiments advanced by any minister in our society, and believing that it was a clear denial that Jesus was the Christ, I felt it my religious duty to take a private opportunity with him at his lodgings. I informed him that I had entertained a high regard for him from the first of our acquaintance to the present time; and withal, informed him of the great uneasiness he had given me in his public communications by bringing Christ down to the level of a mere man. He replied that "it was a matter of the greatest encouragement to him, to believe that Christ was no more than a man, for if he were any thing more, it would destroy the effect of his example, to him." I repeated to him the text, that "the Word was made flesh and dwelt among us," as is stated in John. He said, "it was impossible." In the course of the conversation with him, he further said, "that it was an abomination to pray to Jesus Christ." As regarded the scriptures he said, "they were the cause of more bloodshed and confusion, than any other thing; and that it was a pity the epistles had ever been handed down to us." In the course of the conversation, he asked me if I had ever seen a pamphlet called the 'Celestial magnet.' I told him, that I had seen one number to my great dissatisfaction, as the author attempted to show or prove that Christ was the illegitimate son of Joseph and Mary. He said, "not the illegitimate, but the legitimate son of Joseph and Mary." I told him I thought I could not be mistaken, for I had read it but a few weeks before. He then went into an argument of considerable length, as I understood it, that Christ was the son of Joseph. He said that "he had believed the account traditionally, as contained in the

scriptures, concerning the miraculous conception, but on further examination of the evangelists, there was in them, greater proof than otherwise, of his being the son of Joseph." I have omitted one part that ought to have come in before, respecting Christ, one assertion he made, he said, "it was his belief that Christ was liable to fall like other men." During that opportunity he also declared that "as it was lawful and right for George Fox, in his day, to differ in sentiment from the prevailing doctrines of the age, and to make advances in the reformation, so it was right for him, meaning himself, Elias Hicks, to make further advances." In objecting to the propriety of his promulgating such opinions in the meeting of Friends, and imposing them as the doctrines of our society, I expressed my belief that "if he persisted to do so, it would produce in our society the greatest schism that had ever happened;" he admitted it would produce a schism, but said, "it would be of short duration, for his doctrines must and would prevail." I laboured with him in great tenderness, to re-examine the grounds he had taken, to which he replied, he would. After the yearly meeting closed, still feeling my mind very uneasy on his account, I went again to his lodgings, and proposed to him, to have a few judicious friends invited to come together, to discuss those important subjects that we had conversed about, for it was one in which the happiness and welfare of the society, not only there, but everywhere, was involved. He said, "It was in vain to reason with him on the subject, for his mind was so made up, that he was determined to persevere, let the consequences be what they might."

"In the first month, 1823, he was at Woodbury, it was on the 15th day of the month. I thought it proper for me then to take another opportunity with him, relative to a communication in writing, which he had sent to a number of the elders in Philadelphia, in which he had made some misstatement of my words; in this letter he charged me with acting unfriendly, contrary to discipline, and putting an improper or false construction upon his words. (I give the substance, but I do not pretend to give the words verbatim.) I let him know that I did not consider it unfriendly, or contrary to discipline, to make a statement of the doctrines he published, as I considered it as a species of public property. He said, he did not consider that it was an occasion of offence, for what he preached

publicly he would stand by. He then referred to some remarks he had made in conversation, and thought that unkind, as he considered it a confidential conversation. I told him I did not consider it so, neither had he requested it, and I think held up to him the inconsistency of wishing me to be silent on doctrines he was spreading both publicly and privately. He then gave up the point entirely, as acting towards him unfriendly, or contrary to discipline, when I reminded him of what had passed at New York. I then wanted to know wherein I had wrested his words, or put an improper construction upon them. He took out of his pocket a letter addressed to him by some of the elders of Philadelphia, and pointed to one paragraph, which they informed him I had asserted as what he had declared as his doctrines. It was the declaration I heard him make at New York, that Christ was no more than a man, &c. He remarked, that I ought to have stated as his words, that "Christ was no more than an Israelite," and that with that he would have been satisfied. I informed him, it was my decided belief, that I had repeated the words *verbatim*, having made a memorandum of them shortly after. He then stated, that "Christ was like the other Israelites, and differed from them in fulfilling the law, having had a sufficient portion of the Spirit so to do, as every other Israelite had. He considered "that Christ was like a son who was dutiful and faithful in all things to his father, in such a manner as to be intrusted with the keys of his treasury." I informed him that I did fully believe his views throughout, on the points we had discussed, were at variance with the scriptures of truth, and the doctrines of ancient Friends; and that we, as a religious body, had published to the world, that we were willing that our doctrines and practices should be tested by the scriptures of truth. He said, "he was not willing that his doctrines should be tried by the scriptures, or the writings of ancient Friends; and that he believed George Fox, William Penn and Robert Barclay thought as he did, but they were afraid to come out."

It appears to me impossible that this witness should be mistaken. It was no accidental or transient conversation that he had with Mr. Hicks, but one sought for the very purpose of speaking with him, relative to his doctrines, and to the uneasiness which they excited. Mr. Hicks enters into an argument to prove that his doctrines are

right, and expresses a determination to persist in the promulgation of them, let the consequences be what they might. He admitted that it would produce a schism, but it would be of short duration; and subsequently, when the witness stated to him the disagreement between his views and those of the founders of the society, he expressly says, that he is not willing his doctrines should be tried by the scriptures, or the writings of ancient Friends. Here is a distinct admission, that he differs from the fathers of the church, from the primitive Friends; that he was holding out new lights, and setting up for a new guide; that he was better qualified to instruct in his day, than Fox and Barclay were in theirs, and that although he knew his conduct would produce a schism, yet he was determined to persist in it, though he saw it must rend the society in sunder.

Without detaining the court with reading more of the testimony, I think the doctrines of Elias Hicks are fully made out by the evidence of these witnesses. But we have not to rely on the testimony of witnesses only, we have his own letters, under his own hand, in which he states his doctrinal views distinctly; there are several of these letters, and there can be no doubt as to their meaning. The first of these to which I shall call the attention of the court, is from Elias Hicks to Phebe Willis, dated the 19th of fifth month, 1818. Vol. II. Ev. p. 416. In this letter he says, "But having for a considerable time past, found from full conviction, that there is scarcely any thing so baneful to the present and future happiness and welfare of mankind, as a submission to tradition and popular opinion, I have therefore been led to see the necessity of investigating for myself, all customs and doctrines, whether of a moral or of a religious nature, either verbally, or historically communicated, by the best and greatest of men, or angels, and not to set down satisfied with any thing but the plain, clear, demonstrative testimony of the spirit and word of life and light, in my own heart and conscience, and which has led me to see how very far all the professors of christianity are from the real spirit, and substance of the gospel; and among other subjects, I have been led, I trust carefully and candidly, to investigate the effects produced by the book called the scriptures, since it has borne that appellation, and it appears from a comparative view, to have been the cause of

fourfold more harm than good to christendom, since the apostles' days, and which I think must be indubitably plain to every faithful honest mind, that has investigated her history, free from the undue bias of education, and tradition."

"To the family of Abraham he dispensed a very peculiar system of rituals and outward shadows, to which he required obedience, in order to bring them back to a submission to his will, as manifested by his spirit in their hearts, but he dispensed them to no other people but to Israel, and those that came of their own accord and joined them, and as soon as the effect was produced, by bringing them back to their inward guide, all those outward means became obsolete, and useless. So likewise he made use of the ministry of Jesus Christ, and his apostles, for the same end, to turn from darkness to the inward light, and when that was effected, their ministry had done all it could do, and to such, as they continued to walk in the light, their doctrine became obsolete and useless; and so in every age, where any real reformation has been produced, it has always been by instruments newly raised up, by the immediate operation of the spirit. And where any people have depended upon what has been written to former generations, such make no advancement, but just sit down in the labours of their forefathers, and soon become dry and formal, and fall behind those they are copying after, or propose to follow."

"And how much more reasonable it is to suppose, that an inspired teacher in the present day, should be led to speak more truly and plainly to the states of the people to whom he is led to communicate, than any doctrines that were delivered seventeen hundred years ago, to a people very differently circumstanced to those in this day, I leave to any rational mind to judge. And that the doctrines of George Fox and our primitive Friends should be easier to understand, and plainer, being written in our own language, than the doctrines of the primitive christians, appears very reasonable, but we are all or have been so bound down by tradition, being taught from the cradle to venerate the scriptures, and people generally considering them so sacred as not to be investigated, but bound to receive them as we have been taught; hence we have all been more or less dupes to tradition and error. I well remember how oft my conscience has smote me when I

have been endeavouring to support the society's belief of the scriptures, that they so very far excelled all other writings, that the fear of man had too great a share in leading me to adopt the sentiment, and custom rendered it more easy, but I never was clear in my own mind as to that point, and had I carefully attended to my own feelings I should have been preserved I believe in a line of more consistency, in that respect."

It will be perceived that in this letter Elias Hicks declares that the holy scriptures have been productive of fourfold more harm than good; that to those who turn to the inward light the doctrine of Jesus Christ and his apostles is obsolete and useless; that it is reasonable to suppose that inspired teachers of the present day would be led to speak more truly and plainly to the states of the people than any doctrines delivered seventeen hundred years ago. And moreover that his conscience has often smitten him when he has been endeavouring to support the belief of the society of Friends, that the scriptures so much excelled all other writings. Holding such sentiments as these, could Elias Hicks, I would ask, believe that they were written by inspired men, or that they were given for our guide and instruction? He seems to have believed and esteemed them in his youth, but when he unhappily became a convert to these new doctrines, doctrines so adverse to the whole testimony of the bible, then he rejected and undervalued them. What standard of faith then does he leave for christians? what rule for their guide, what test for doctrines? What becomes of those precious and consoling hopes that we derive from that sacred volume.

There is another letter to Phebe Willis, dated 23rd of ninth month, to which I will now refer the court. It is to be found in vol. II. Ev. p. 419. In this letter he says, "The next thing I would observe is, that I have said that it would be better that they were entirely annihilated, but this is not the case, as I have never said it, as I remember, except I might when in pleasant conversation with my particular friends, who are in full unity, and knew how to understand me, I might have said, that I did not know but it might be as well that they were entirely done away, but never expressed as my settled belief, but I may add that I sometimes think that if they were really needful and useful to a few who make a right use of them, yet as I believe they are doing great harm to multitudes of others,

whether it would not be better for the few who find some comfort and help from them to give them up for a time until the wrong use and abuse of them are done away, in the same manner as in a moral relation it might be better for the inhabitants of the world if distillation and the means of making spirituous liquors was for a time given up and done away, until the wrong use and abuse of it was done away and forgotten, although it might deprive some of the benefit of it who use those articles only to their comfort and help, for if after a time it might be thought right to renew the making it, when the intemperate use and abuse was done away, it would be a very easy thing for man to make it again. Just so in respect to the scriptures, it would be a very easy thing for divine wisdom and goodness to raise up and qualify some of his faithful servants to write scriptures if he should think best, as good and as competent for the generation in which they lived, and likely would be much better than those who wrote so many hundred years since, for would not some of us be very glad if we could have immediate access to Paul, and some other of the apostles, who contradict one another and sometimes themselves, by which means we might be informed of the true meaning of what they have wrote, and cause us all to understand them alike."

"I shall notice one thing more in thy letter, that respecting the atonement; and as time will not admit me to write much more, I shall, in a short way, give thee my view on the subject: and first, I may say, that our primitive Friends stopt short in that matter, not for want of faithfulness, but because the day that was in some respects still dark, would not admit of further openings, because the people could not bear it, therefore it was to be a future work. But to suppose, in this day of advanced light, that the offering of the outward body of Jesus Christ should purge away spiritual corruption, is entirely inconsistent with the nature and reason of things, as flesh and spirit bear no analogy with each other, and it contradicts our Lord's own doctrines, where he assured the people that the flesh profiteth nothing; and many other of his sayings it contradicts. And I believe nothing ever did, or ever will, atone for spiritual corruption, but the entire death of that from whence that corruption originated, which is the corrupt will, and the life that the creature has generated in him by that will, both which must he slain

by the sword of the Spirit, which stands in the way to Eden, and must die and be annihilated on the cross; and that is the true atonement which the creature cannot effect for himself, only as he submits to the operation of the life and spirit of Christ, which will enable the willing and obedient to do it; and the outward atonement was a figure of it, which with the outward example of Jesus Christ, in his righteous works and pious death, gives strength to the faithful to make this necessary offering and sacrifice unto, by which his sins is blotted, and he again reconciled to his maker."

It is apparent, I think, from the tenor of this letter, that Elias Hicks entirely rejected the holy scriptures. He admits that he may have said to his friends that he did not know but it would be as well that they were entirely done away, asserts that they are doing great harm to multitudes, and even descends to a degrading comparison of them with spirituous liquors; he also holds out the idea, that if they were entirely destroyed, it is most likely if any scriptures at all should afterwards be necessary, persons would be qualified to write such as would be much better than those penned so many hundred years ago. It would seem that he was vain and simple enough to imagine that he could write better scriptures than Peter or any other of the apostles.

We have another letter addressed to Thomas Willis, dated tenth month, 1821. It is to be found in vol. II. Ev. p. 421, and contains the following expressions. "Thine of the 27th instant I have duly considered, and although, like thyself, I was brought up and educated in the historical and traditional belief that the conception of Jesus of Nazareth, in the womb of Mary his mother, was effected by the power of God, and this has been my belief as far as history could produce a belief, for more than fifty years; and although I read or have heard the scriptures read, many times over, yet as I read them, or heard them read, under the prejudice of a traditional belief, I never observed any thing that appeared to militate against it; but having in the compass of a few years past, been led into an examination of the ancient history of the professed christian church, wherein I discovered, that many who made profession of the christian name, believed otherwise, and these at times stood foremost in esteem."

"Now, in his creed, [the Bishop of Rome] to which he

made all the nations of Europe bow, by the dint of the sword, was this of the miraculous birth; therefore, all children, for several hundred years, were brought up and educated in this belief, without any examination in regard to its correctness.

“Finding this to be the case, I examined the accounts given on this subject by the four Evangelists, and according to my best judgment on the occasion, I was led to think there was considerable more scripture evidence for his being the son of Joseph than otherwise; although it has not yet changed my belief, are the consequences which follow much more favourable; for as the Israelitish covenant rested very much upon external evidence, by way of outward miracle, so I conceive this miraculous birth was intended principally to induce the Israelites to believe he was their promised Messiah, or the great prophet, Moses had long before prophesied of that should come, like unto himself. But, when we consider that he was born of a woman that was joined in lawful wedlock with a man of Israel, it would seem that it must shut the way to the enforcing of any such belief, as all their neighbours would naturally be led to consider him the son of Joseph, and this it appears very clear they did, by the scripture testimony: and although it has not, as above observed, given cause as yet, to alter my views on the subject, as tradition is a mighty bulwark, not easily removed, yet it has had this salutary effect, to deliver me from judging my brethren and fellow-creatures who are in that belief, and can feel the same flow of love and unity with them, as though they were in the same belief with myself: neither would I dare to say positively that it would be my mind, they should change their belief, unless I could give them much greater evidence than I am at present possessed of, as I consider in regard to our salvation, they are both non-essentials; and I may further say, that I believe it would be much greater sin in me, to smoke tobacco that was the produce of the labour of slaves, than it would be to believe either of these positions.”

In a letter to Dr. N. Shoemaker, dated third month 31st. 1823, he writes thus: “Thy acceptable letter of 1st month last, came duly to hand, but my religious engagements, and other necessary concerns, have prevented my giving it that attention that its contents seem to demand. Thou queries after my views of the suffering of Jesus

Christ, the Son of God, and what was the object of the shedding of his blood on the cross, and what benefits resulted to mankind by the shedding of this blood, &c." I shall answer in a very simple way, as I consider the whole subject to be a very simple one, as all truth is simple when we free ourselves from the improper bias of tradition and education, which rests as a burthensome stone on the minds of most of the children of men, and which very much mars the unity and harmony of society.

"1st. By what means did Jesus suffer? The answer is plain, by the hands of wicked men, and because his works were righteous and theirs were wicked. Query. Did God send him into the world purposely to suffer death by the hands of wicked men? By no means; but to live a righteous and godly life, (which was the design and end of God's creating man in the beginning,) and thereby be a perfect example to such of mankind as should come to the knowledge of him and of his perfect life."

"But, *I do not consider that the crucifixion of the outward body of flesh and blood of Jesus on the cross, was an atonement for any sins but the legal sins of the Jews; for as their law was outward, so their legal sins and their penalties were outward, and these could be atoned for by an outward sacrifice; and this last outward sacrifice, was a full type of the inward sacrifice that every sinner must make, in giving up that sinful life of his own will, in and by which he hath from time to time, crucified the innocent life of God in his own soul; and which Paul calls "the old man with his deeds," or "the man of sin, and son of perdition," who hath taken God's seat in the heart, and there exalteth itself above all that is called God, or is worshipped, sitting as judge, and supreme. Now all this life, power, and will of man, must be slain, and die on the cross spiritually, as Jesus died on the cross outwardly, and this is the true atonement, which that outward atonement was a clear and full type of."*

"Surely, is it possible, that any rational being that has any right sense of justice or mercy, that would be willing to accept forgiveness of his sins on such terms!!! Would he not rather go forward and offer himself wholly up to suffer all the penalties due to his crimes, rather than the innocent should suffer? Nay—was he so hardy as to acknowledge a willingness to be saved through such a medium, would it not prove that he stood in direct opposition to every principle of justice and honesty,

of mercy and love, and show himself to be a poor selfish creature, and unworthy of notice!!!

“Having given thee a sketch of my views on the subject of thy queries, how far thou may consider them correct, I must leave to thy judgment and consideration; and may now recommend thee to shake off all traditional views that thou hast imbibed from external evidences, and turn thy mind to the light within, as thy only true teacher: wait patiently for its instruction, and it will teach thee more than men or books can do; and lead thee to a clearer sight and sense of what thou desirest to know, than I have words clearly to convey it to thee in.”

In this letter he not only expresses the opinion that the sufferings and death of Jesus Christ were not an atonement for any sins, but the legal sins of the Jews, but he goes further, and asks whether it is possible that any rational being, who has any right sense of justice or mercy, would be willing to accept salvation or forgiveness of sins, upon such terms. It is impossible to make use of stronger terms, in the rejection of the doctrine of the atonement, than he has done in this letter. I might detain the court by reading numerous passages from his printed sermons delivered in public meetings, within the limits of the Philadelphia yearly meeting, and in other places, in which he promulgates sentiments similar to those which I have already exhibited, but it would be superfluous, the fact of his holding and preaching these doctrines is notorious, and has been so for years past.

We have then, written declarations, under the hand of Elias Hicks, declaring the doctrines which he holds. What is there to overcome all this body of oral and written evidence, and induce us to believe, that he held the doctrines of the primitive Friends, and that he did not hold the doctrines which he thus repeatedly and deliberately declares that he did hold? There is nothing to contradict all this evidence, except his answers to certain queries that were put to him in 1829, after this difficulty and schism had occurred in the society. There is no doubt but these queries were addressed to him for the very purpose of procuring such answers, as should induce his friends to think that he did not go so far, as his former letters and sermons clearly imply. To persons unaccustomed to his views, and modes of expression, it might seem that these answers were more orthodox. But knowing his evasive

manner of speaking, and the contradictions which he frequently ran himself into, we can find no difficulty in understanding his real meaning. They contain no clear and direct acknowledgment of those doctrines, which he was so well known to deny, and in several points they fully confirm his denial of them. One of these answers is professedly given with the view of declaring his belief in the divinity of Christ. In the first part of his answer he says, very artfully, that no man had ever inculcated that doctrine more frequently than he had done. But he no where, in his answer admits, or alleges his belief in the doctrine of the divinity of Christ, as understood by all orthodox sects. The divinity to which he alludes, is the divinity of the spirit that was in Christ; this and this only, he considered to be the Christ. He says Jesus was truly the Son of God, endued with power from on high, but he held this to be true, as regarded every true christian. He explains his meaning to be, that Jesus had a larger measure of this spirit than other men, because he had a greater work to perform, and illustrates it, by referring to the parable of the servants, one of whom had five talents, another two, and a third only one talent. But he no where admits that in Jesus Christ dwelt all the fullness of the God-head bodily, he no where ascribes to him complete and underived divinity.

Giving to this testimony all the credit which the opposite counsel claim for it, can we believe that it is entitled to more weight than his repeated public testimonies, in the character of a minister, and his numerous letters to, and conversations with his brethren? And here permit me to remark, that Elias Hicks justified and defended an evasive policy; there is evidence before this court, that he contended for the propriety of such a course. There is evidence, that Elias Hicks declared of Fox and Barclay, that if they had honestly spoken out, they would have agreed with him, but that they kept silence from motives of policy, in which he justified them, because the temper of the times would not bear an open declaration of their real sentiments. He quotes the saying of the apostle Paul, that he became all things to all men, as a pretext for dissimulation and falsehood. If then he held the sentiments attributed to him, and which he declared he did hold, and entertained these views of the lawfulness of evasion, can we doubt, but that in penning these answers, he would use

such language as would deceive others, and at the same time satisfy his own conscience. The evidence of the unsound doctrines of Elias Hicks, and his admission that they were different from the principles of the early Friends, is proved so conclusively, that there can remain no doubt respecting them. Neither can there be any question, that these were the doctrines referred to by the new society, in their address of fourth month, 1827, when they say, that "doctrines held by one part of society, and which they [the Hicksites] believe to be sound and edifying, are pronounced by the other part, to be unsound and spurious." The fact is proved by their own witnesses, as well as by the circumstance, that there were no doctrines in controversy between them, but those of Elias Hicks. The whole evidence shows, that his doctrines, and those of the new society, are the same. They espoused his cause, and undertook to defend him against the elders, when these attempted to call him to account for spreading these doctrines, and from that opposition to the elders, and support of Elias Hicks, all these difficulties arose. They all arose from the attempts of the elders to prevent the spreading of these doctrines, and from a party in the society rising up to defend Elias Hicks in spreading them. The leading men belonging to this party, their public ministers, the particular friends of Hicks, Lower and Jackson, so far as we can ascertain from the evidence, hold the same doctrines. When they come to be examined, they refuse to answer, because they know that they could not disclose their doctrines, without showing a departure from the doctrines of Friends, and their unity with Hicks. I repeat again, there were no other doctrines than those of Elias Hicks in controversy; there were none other but his about which the dispute could have arisen, because no other were controverted. When therefore we ascertain what the doctrines of Hicks are, we show the doctrines respecting which all the controversy, and difficulty, and schism arose.

But we do not rest here. After all this separation had occurred, after the controversy respecting the sentiments of Hicks had existed for years, and his sermons containing them had been preached and published, and extensively circulated; and this "Hicksite" party gave him certificates of their unity with him, did they not thereby adopt his doctrines? We find from the evidence, that Hicks at-

tended the new yearly meeting in Green street, in the year 1828, after the separation, and that that meeting then gave him a certificate of unity and acceptance with them. Was not this a clear and full admission that they adopted and approved his doctrines? I refer for proof of these facts to the testimony of Abraham Lower, vol. I. Ev. p. 468, and of Halliday Jackson, vol. II. Ev. p. 167. After an examination of the evidence in this cause, it cannot be pretended by any man, that this unhappy breach arose about discipline; the whole difficulty proceeded from the controversy about the doctrines of Elias Hicks. The alleged violations of the discipline were the *effects* not the *causes* of the controversy. Hicks himself well knew, and he admitted, that his doctrines were not the same as those of the original Friends, of Fox and Barclay.

But can we have a doubt of the fact, when we see the same schism occurring, on the same grounds, in other places. In New York as in Philadelphia, it was a dissension about doctrines. The separation in Philadelphia took place before that in New York. That in New York occurred in the following year. Elias Hicks was there. We find that a scene of tumult and confusion attended it, which could not be surpassed by a town meeting; Hicks calling out and encouraging his adherents, telling them not to let the clerk proceed. His name is not peculiar to the party in this state or in Pennsylvania, but attaches to them wherever the separation has taken place. In Ohio and Indiana the same state of things exists, there they are greatly in the minority. Here they allege they are a majority, but that is a matter of doubt, as appears from the evidence; their majority is not proved. The same separation having taken place in New York, Philadelphia, Ohio, and Indiana, and Hicks being in concert and union with the seceding party in all these places, the conclusion is irresistible, that the same ground of separation exists in all, and that this ground is the doctrines which he promulgated. I think, therefore, the court can have no difficulty in deciding that the schism arose about religious doctrines, and about the doctrines inculcated by him.

I have now gone through the evidence on this head, as fully as is necessary to place this case in its true light. I have omitted many topics which might have been introduced, but I have no doubt that this cause will be fully and carefully examined by your honours, and that the in-

vestigation which you will give it, will more than supply any deficiency of mine. It only remains to inquire, what is the law on the subject before the court, if I have succeeded in establishing the propositions which I have endeavoured to maintain. The principles of law applicable to this cause have been so long and clearly settled, that there can be but little question about them now. Whenever a schism takes place, and a separation follows, the party seceding can have no claim to the property, as against the congregation from which they separate. Whenever they cease to be members of the society, they cease to have any right to control its property. The property is held for the benefit of the society, and if they separated and withdrew, even if there is no dispute upon doctrines, there is no principle upon which they could take the property with them. The gentlemen on the opposite side contend, that there must be a dissension on the ground of religious faith, or else the party seceding would have a right to the property in case they were a majority. But if they withdraw and establish a new society, whether doctrines are the ground of dispute and withdrawal or not, they cease to be members of the original society, and they cease to have any claim to the property when they cease to be members, their claim being merely as members, not as individuals. The cases in the books clearly support this position. This is the principle of the decision in 5 Mass. Rep. 554. Wherever a new township, or corporation, or new parish is erected out of an old one, the new can have no claim to the property of the old one. The same principle is recognized in 8 Mass. Rep. 96. 4 lb. 389. 7 lbid. 435. All these decisions go upon the principle of a *separation*, not upon the ground of religious doctrine. If, therefore, this new society have separated from us; if they have withdrawn; if they cannot show that the original meeting was dissolved, they can have no claim to the property. The yearly, quarterly, monthly, and preparative meetings, all stand upon the same footing in this respect. If they have separated from their brethren, and gone over to a new head, they can have no claim to any part of this property. And the decisions of the court of chancery in respect to trust property, are all upon the same principles. A property held in trust for a religious community, must be held in trust for that community, and for promoting those doctrines that the com-

munity held at the time the trust was created. If part of them change their doctrines, whether the majority or the minority, it is impossible that they can take the property belonging to the society with them. If part of an Episcopal church join a Presbyterian church, they cannot carry any part of the property with them; they cannot require the others to change their opinions. If a change of doctrines takes place in all the members of a society, there may be more difficulty about it. Lord Eldon, however, seemed to think, that even then the property could not be used to support a different doctrine from that held at the time it was given. But where there is a majority merely who change, there can be no doubt according to the principle of trusts, it must be considered as held solely for the benefit of the congregation who remain, and for those principles for which it was originally intended. In 2 Jacob & Walker, 245, this principle is fully recognized, that the property must be considered as held for the benefit of that community, and of those doctrines, which existed at the time the trust was created. The same doctrine is recognized in Merivale, 353. The trust in that case was a very general one. It was expressed to be for the benefit of a congregation worshipping Almighty God. A reference was there made to a master, to ascertain the doctrines of the society at the time of the trust. It was there held, that if they were then trinitarians, and those who now held it were unitarians, it could not be held by them; but must be held for the benefit of those for whom the trust was originally created.

The case in Dow, and in 2 Bligh, 529, contains the same principle, and goes also to establish the other principle, that if a division takes place in a congregation, and a part separate from the original head, and go to a new one, and a part do not, whether doctrines form the ground of separation or not, the part which go over to the new head lose their rights. If the superior churches change their doctrine, the subordinate ones are not bound to change theirs. If a part of the head changes its doctrines, and a part of the subordinate branches change theirs also, then those who separate and form a new head, will lose their right to the property; but if there is no dispute about doctrine, those who separate from the head will be considered as seceders, and will lose the benefit of the property. If the whole head changes its religious principles, the so-

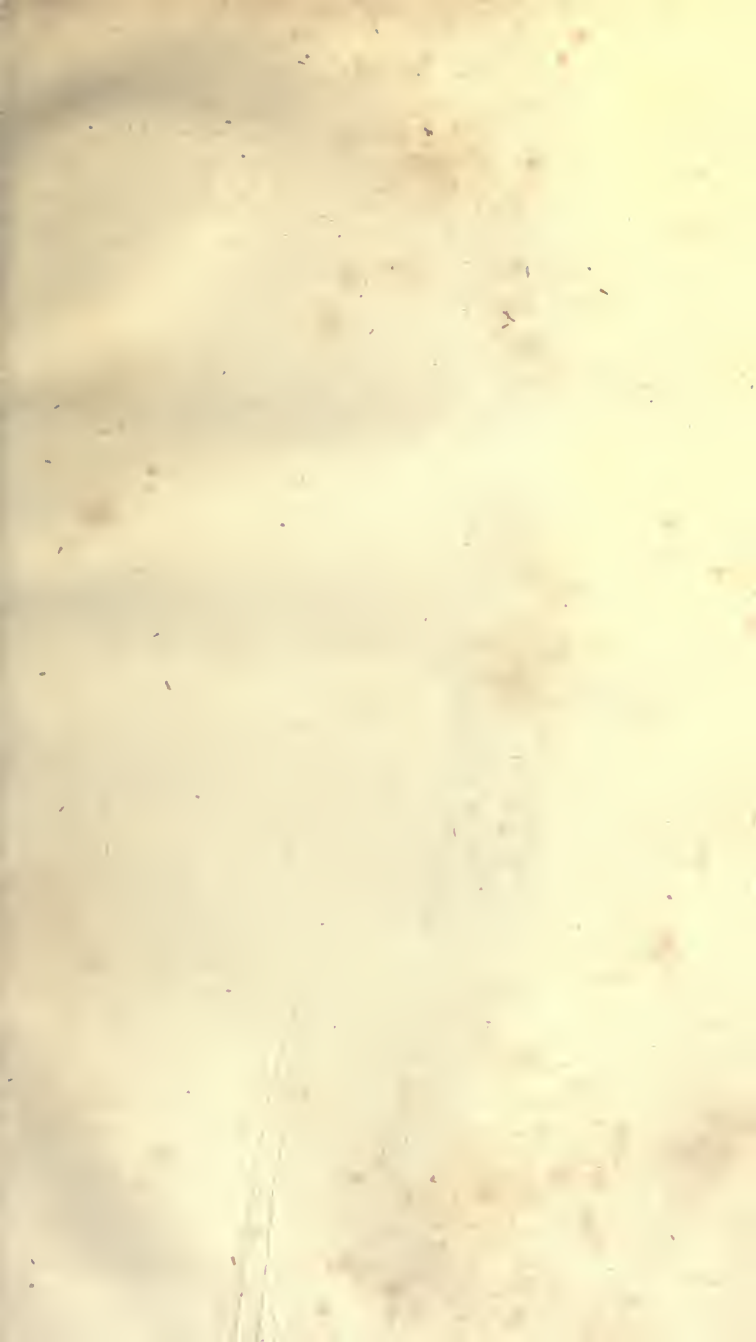
society which separates from it, and adheres to the religious principles of the society, will not lose their rights. These decisions are all in conformity to, and all go upon the same principle. The principle of majority has never been made the ground of decision in the case of a schism in a congregation or religious society. Such a principle is not to be found in our law books or systems of equity. Upon what principle can the majority claim the property, if they absolve themselves from the head of their church, and voluntarily withdraw? They cannot take away the right of property from those who adhere to the society to which they originally belonged. If they hold in their individual capacity, each will receive an individual portion according to his right. If they hold as members, they can control the property no longer than they continue in membership: the right cannot be affected by a change of trustees.

These principles as laid down in Dow and Bligh, are highly important, and will govern the court in this case.

It would be strange indeed, if property belonging to a religious community, was to be divided every time a schism takes place; this would be a great encouragement to schismatics. There can be but one uniform principle. When a division takes place by consent of parties, they may divide the general property, but the court will never suffer property held in trust for a particular charity to be divided, and a part diverted to another object. The idea of the gentlemen opposed to us was, that if the trust was explicitly declared in the deed of trust, the court must be governed by it, and if not so expressed, the majority must govern. In reply, I refer to the case in 3 Merivale, and the one in Bligh. There the most general terms were used in the creation of the trust, and yet the court held that they must look back, and if they could discover the original intention of the trust, they would be governed by it. The cases I have quoted furnish full answers to all the distinctions attempted to be raised by the opposite counsel. It will be found that his positions are all untenable, and that there is but one uniform principle running through and governing all the decisions of the courts. This question is highly important, not only to the society of Friends, but to every religious community; what is the law in regard to one, must also be as respects all; we are now to know whether the principle is to be sanctioned, that a

majority is to prevail over a minority, and to divest them of their rights. The decision of this cause then is a subject of great interest and importance to every religious community, and at the hands of this court it doubtless will receive that careful and deliberate consideration which its magnitude demands.

With these considerations, I submit the case to the court, not doubting but a decision will be made that shall promote the interests both of the society of Friends, and the community at large. It is highly desirable that this question should be settled on its real merits; no technical objections have been raised, and great pains have been taken to ascertain the true character and rights of the respective parties. They are placed in an unhappy situation, and the question must, sooner or later, be determined. The sooner it is done the better it will be for all parties; and we trust such a decision will be given, as shall put the matter entirely at rest,





THE DECISION.

МОСКОВСКИЙ

CHANCERY OF NEW JERSEY.

BETWEEN

JOSEPH HENDRICKSON, *complainant,*

and

THOMAS L. SHOTWELL, *and* ELIZABETH
his wife, defendants.

} On bill for
relief, &c.

AND BETWEEN

THOMAS L. SHOTWELL, *complainant,*

and

JOSEPH HENDRICKSON *and* STACY DE-
COW, *defendants.*

} On bill of
interpleader,
&c.

On the 10th July, 1832, Chief Justice Ewing and Justice Drake came into court, and delivered their opinions in this cause.

Opinion of CHIEF JUSTICE EWING.

Joseph Hendrickson exhibited a bill of complaint in this court, stating that on the second day of April, one-thousand eight hundred and twenty-one, being the Treasurer of the School Fund of the Preparative Meeting of the Society of Friends of Chesterfield, in the county of Burlington, he loaned the sum of two thousand dollars, part of that fund, to Thomas L. Shotwell, who thereupon made a bond to him, by the name and description of Joseph Hendrickson, Treasurer of the School Fund of Crosswicks Meeting, conditioned for the payment of the said sum, with interest, to him, treasurer as aforesaid, or his successor, on the second day of April, then next ensuing, and also a mortgage of the same date, by the like name and description, on certain real estate, with a condition of redemption on payment of the said sum of money, with interest, to the said Joseph Hendrickson, or his successor, treasurer of the school fund, according to the condition of the aforesaid bond. He farther states, that Thomas L. Shotwell refuses to pay the money to him, being treasu-

rer as aforesaid, on divers unfounded and erroneous pretensions; and he seeks relief in this court by a decree for the foreclosure of the mortgage, or for a sale of the mortgaged premises, and an appropriation of the proceeds to the payment of the debt.

Sometime after the exhibition of this bill, Thomas L. Shotwell filed here a bill of interpleader, wherein Joseph Hendrickson and Stacy Decow are made defendants; in which he admits the above mentioned bond and mortgage, and the source from which emanated the money thereby intended to be secured, the school fund of the Chesterfield preparative meeting. He admits, also, the liability of himself, and the real estate described in the mortgage, and avows his readiness and willingness to pay whatever is due. But he says Stacy Decow has warned him not to pay to Joseph Hendrickson, alleging that Hendrickson is no longer treasurer of the fund, and has therefore no right to receive; and that he is the treasurer and successor of Hendrickson, and as such claims the money mentioned in the bond and mortgage. Seeking, then, the protection of this court, and offering, on being indemnified by its power, to pay to whomsoever the right belongs, he prays that Joseph Hendrickson and Stacy Decow may, according to the course and practice of this court, interplead, and adjust between themselves their respective claims.

Joseph Hendrickson answered this bill; and insists as in his original bill, that he is, as he was when the bond and mortgage were executed, the treasurer of the school fund of the Chesterfield preparative meeting of Friends at Crosswicks, and is entitled to the bond and mortgage, and to receive the money due thereon.

Stacy Decow has also answered the bill of interpleader. He admits the loan of the money, part of the school fund, to Shotwell, and the due execution and delivery, and the validity of the bond and mortgage, and that when they were made, Joseph Hendrickson was the treasurer of the school fund, duly appointed by the Chesterfield preparative meeting at Crosswicks; in whom, as all the parties in this cause admit, was vested the right of appointing the treasurer of the fund. But he says that before the filing of the original bill by Joseph Hendrickson, and "on the thirty-first day of the first month, 1828, at a lawful meeting of the said Chesterfield preparative meeting of Friends, held at the usual time and place of meeting at Crosswicks,

he was appointed, in due and lawful manner, treasurer of the said school fund, to succeed the said Joseph Hendrickson; and as such successor, became entitled to all the books, obligations, and other papers, which he had in his possession, and also to the funds then in his hands, and more particularly to the bond and mortgage in the original bill and bill of interpleader mentioned, and the money due thereon; and the said Joseph Hendrickson ceased to have any right, title, or claim thereto." He farther insists "that he always has continued since his appointment, and is the lawful treasurer of the said school fund, and as the successor of the said Joseph Hendrickson is lawfully entitled to have and receive all such bonds, obligations, and mortgages, and the money due thereon, as had been taken for the loan of any part of the said fund in his name as treasurer of the said school fund, or payable to him, as such treasurer, or his successor."

This brief view of the pleadings is here represented, in order distinctly to exhibit, in a clear and naked manner, divested of auxiliary and explanatory matters, and especially of forensic forms, the grounds of the respective claims of the interpleading parties. And hence, we may discern, the great outlines of the inquiries which an investigation of this cause will lead us to make. For according to these pretensions, and to these alone, thus set forth in the pleadings, as they are respectively supported or subdued by the proofs, the decree of this tribunal must be made, whatever other points favourable or unfavourable to either party may become manifest by the evidence.

Joseph Hendrickson claims the money, because originally made payable to him, and because he is, as he then was, the treasurer of the fund.

Stacy Decow claims the money, because payable by the terms of the bond to the successor of Joseph Hendrickson in that office, and because he became, and is such successor, and the present treasurer.

A slight sketch of the history of the establishment and organization of the Crosswicks school, and of the fund, may be interesting, and will, perhaps shed light on some step in the progress of our investigations.

The education of youth and the establishment of schools, attracted the care and attention, and brought out the exertions, of the yearly meeting of Philadelphia, at an early day. Most earnest and pressing recommendations of these

interesting duties, to the consideration and notice of the society were repeatedly made; and to render these more effectual, committees were appointed to attend and assist the quarterly meetings. In the year 1778, the yearly meeting adopted the report of a committee "that it be recommended to the quarterly, and from them to the monthly and preparative meetings, that the former advice, for the collecting a fund for the establishment and support of schools, under the care of a standing committee, appointed by the several monthly or particular meetings, should generally take place, and that it be recommended by the yearly meeting, to friends of each quarter, to send up the next year, an account of what they have done herein." And the report suggests the propriety of "a subscription towards a fund, the increase of which might be employed in paying the master's salary, and promoting the education of the poorer Friends' children." vol. 2. Evid. 387.

The quarterly meeting of Burlington appear to have faithfully striven to promote the wise views and benevolent purposes of the yearly meeting. In 1777, and 1778, appropriate measures were adopted, vol. 2. Evid. 436. In 1783, the subject was "afresh recommended to the due attention of their monthly and preparative meetings, and to produce renewed exertion," a committee previously appointed, was discharged, and a new one raised; and "it is desired," says the minute, "that accounts of our progress herein, may be brought forward timely, to go from this to the ensuing yearly meeting." vol. 2. Evid. 436.

Within the bounds of the Chesterfield monthly meeting; although a committee had been for some time charged with the subject, there appears no practical result, until after the meeting in April, 1788, when a new committee was appointed, "to endeavour to promote the establishing of schools, agreeably to the directions of the yearly meeting." vol. 2. Evid. 349. In August, 1789, the committee reported, that they had agreed on a place to build a school-house, and had obtained subscriptions to a considerable amount, and had agreed "to lay the same before the monthly meeting for their approbation." The minute of the meeting approves, "and empowers them to proceed." vol. 2. Evid. 349. To the monthly meeting of August, 1791. "The committee appointed for the establishment of schools, agreeably to the direction of the yearly meeting, reported, there is a house at Chesterfield,

so far finished, that a school might be kept in it, but it is not yet occupied for that purpose; neither is there any such school within this monthly meeting." The clerk was directed "to send up" this report "to the ensuing quarterly meeting." vol. 2. Evid. 349. No other action on it took place by the monthly meeting, until December, 1791, when they recommended to the preparative meeting of Chesterfield, "and they are hereby authorized," says the entry on the minutes, "to open a school in the said house, and appoint a suitable number of Friends, as trustees, to take the care and oversight thereof, and to make rules and regulations for the government and promotion of the institution; which rules and regulations shall always be inspected by the monthly meeting committee, for their approbation or disallowance; and said meeting are likewise authorized to appoint a treasurer, to receive subscriptions and donations, for accumulating a fund." Vol. 2. Evid. 349, exhib. 51.

The fruit of these discreet and vigorous measures soon appeared. The house built, provision made for trustees and a treasurer, and the accumulation of a fund thus earnestly resolved, a subscription was opened, and numerous and generous donations were obtained. The original instrument of writing has been produced before us. It is an interesting record of liberality. The subscribers describe themselves to be "members of the preparative meeting of the people called Quakers, at Crosswicks." They engage to make the payments to the "treasurer of the school at Crosswicks, begun and set up under the care of the preparative meeting." And the purpose is thus declared. "The principal whereof, so subscribed, is to be and remain a permanent fund, under the direction of the trustees of the said school, now or hereafter to be chosen by the said preparative meeting, and by them laid out or lent on interest, in such a manner as they shall judge will best secure an interest or annuity, which interest or annuity is to be applied to the education of such children as now do, or hereafter shall, belong to the same preparative meeting, whose parents are, or shall not be, of ability to pay for their education." Exhib. 1, vol. 2. Evid. 411.

This subscription was the basis of the school fund. Accessions to it were afterwards made, by other individuals of the society; and the quarterly meeting of Burlington, who held and owned a stock, composed of donations, be-

quests, and the proceeds of the sale of some meeting houses, resolved, in 1792, to divide a portion of it among the monthly meetings, "for the promotion of schools, answerable to the recommendation of the yearly meeting, by establishing permanent funds within such of the meetings where none have been heretofore, or in addition to such as are already established." vol. 2. Evid. 437, exhib. 32. The share of Chesterfield monthly meeting having been received, was subdivided, and a part of it paid over to the treasurer of the school fund of the preparative meeting in Chesterfield, "to be applied to the use directed by the minute of the quarterly meeting." vol. 2. Evid. 347, exhib. 51. In 1802, a farther sum, arising from the sale of "an old meeting house," was paid to the treasurer, by the monthly meeting, to be appropriated in the same manner. Exhib. O 2, vol. 2. Evid. 347.

In this way, and by discreet and prudent management, a fund was accumulated, a school house erected, and, as we learn from one of the witnesses, "Friends, for many years, generally had a school kept therein, under their superintendence, and frequently appropriated a part of the proceeds towards paying the teacher's salary, and for the education of children contemplated in the original establishment of the fund." Samuel Craft, vol. 2. Evid. 350.

A part of this fund, as we have already seen, was loaned to Thomas L. Shotwell, and is the subject of the present controversy.

For the direction of the school, and for the care, preservation, and management of the fund, provision, as has been shown, was made, as well by the terms of the subscription, as by the resolution of the monthly meeting. The officers, were accordingly appointed by the preparative meeting, from time to time, as occasion required. The trustees were usually chosen in the first month of every year, vol. 2. Evid. 287. No fixed term of office appears to have been assigned to the treasurer; so that the incumbent remained until removed by death, resignation, or the will of the appointing body. The person who held that station when the subscription was made, continued there until 1812, when another Friend succeeded him, and remained in office until Joseph Hendrickson was duly appointed, in 1816.

The facts thus far presented are not, and from the pleadings and evidence in the cause, cannot be, the sub-

ject of dispute. There are some positions, deducible from them, which are equally clear and incontrovertible.

First. The money mentioned in the bond being payable to Joseph Hendrickson, as treasurer, he has an indisputable right to claim and receive it, if he remains in that office.

Second. Inasmuch as he was duly appointed, which is unequivocally admitted by the pleadings, and inasmuch as the term of office of treasurer does not cease by efflux of time or by previous limitation, the legal presumption is that he remains in office until competent evidence of his due removal is given.

Third. Such being the case, Joseph Hendrickson is not required to produce farther evidence of his right to receive the money, or of his continuance in office, or that he has been retained there by the competent authority; but whoever denies that right, or seeks to sustain any claim on the ground that he has ceased to be treasurer, ought to establish the ground by lawful and sufficient proof.

Fourth. Inasmuch as Stacy Decow alleges that Joseph Hendrickson was removed from office, and that he was appointed his successor and treasurer of the school fund, (and upon this removal and appointment, he rests, in his answer, for the entire support of his claim,) it is incumbent on him to establish the fact and legality of this removal and appointment.

The power of appointment and removal, as the litigating parties unqualifiedly admit, is vested in the Chesterfield preparative meeting at Crosswicks, meant and mentioned in the original subscription paper or agreement of the donors; which is distinguished as Exhibit No. 1, and which I have already referred to as the basis of the school fund. The parties also admit, or rather, insist, in their pleadings, by their evidence, and in the arguments of their counsel, that the preparative meeting is one and undivided; or in other words, that there is and can be but one body entitled to be called the Chesterfield preparative meeting, to exercise its power and authority, and especially, the prerogative of removal and appointment. It farther appears from the evidence, that a body calling themselves, and claiming to be, the Chesterfield preparative meeting of Friends at Crosswicks, did on the thirty-first day of January 1828, adopt a resolution

and enter it on their minutes, to the following effect: "This meeting being now informed by the trustees who have the immediate care and trust of the school fund belonging to this meeting, that the person who was sometime since appointed treasurer thereof, refuses to settle the account of the said fund with them, this meeting, therefore, now think it best to appoint a Friend to succeed him as treasurer of the said fund, and Stacy Decow being now named to that service and united with by this meeting, is appointed accordingly."

We are now brought to the issue between these parties, and are enabled to propound for solution, the question on which their respective claims depend; was this body the Chesterfield preparative meeting of Friends at Crosswicks, meant and mentioned in the establishment of the school fund? If it was, Stacy Decow is the successor and treasurer. If not, Joseph Hendrickson remains in office, and is entitled to the money.

The meetings in the society of Friends are of two kinds, for worship, and for discipline, as they are sometimes called, or in other words, for business. This distinction is sufficiently correct and precise for our present purposes, and it is not necessary to pause to consider of the suggestion, I have read somewhere in the testimony or documents in the cause, or perhaps, heard from the counsel in argument, that every meeting for discipline, is in truth a meeting for worship, since he who cordially and faithfully performs any ecclesiastical duty, does thereby pay an act of adoration to the Almighty.

The meetings for business are four in number, marked and distinguished by peculiar and characteristic differences; preparative, monthly, quarterly and yearly. These are connected together, and rise in gradation and rank in the order of their enumeration. Each yearly meeting comprehends several quarterly meetings; each quarterly meeting several monthly meetings; and every monthly meeting embraces several of the lowest order, preparative meetings. The preparative meeting is connected with, and subordinate to, some monthly meeting; the monthly meeting, to some quarterly meeting; the quarterly meeting, to its appropriate yearly meeting. The connexion and subordination are constitutional and indispensable; insomuch, that if any quarterly meeting withdraws itself from its proper yearly meeting, without being

in due and regular manner united to some other yearly meeting, it ceases to be a quarterly meeting of the society of Friends. In like manner of the other meetings, down to the lowest. So that if a preparative meeting withdraws from its peculiar monthly meeting, and does not unite with another of the same common head, or some other legal and constitutional head, or in other words, some acknowledged meeting, it does, from the moment, and by the very act of withdrawal, cease to be a preparative meeting of the society of Friends.

The truth of the position I have thus laid down, respecting connexion and subordination, will not, I presume, in the manner, and to the full extent which I have stated, meet with any denial or doubt. Yet, as it is of considerable importance in the present cause, I shall show that it is established; first, by the constitution and discipline of the society; second, by their usages, or, as they might be called, in forensic language, cases in point, or precedents; and lastly, by the opinion of the society at large, so far as may be learned from the views of well informed members.

In the first place, then, as proposed, let us look into the book of discipline. We find there the following clear and explicit language. "For the more regular and effectual support of this order of the society, besides the usual meetings for the purposes of divine worship, others are instituted, subordinate to each other; such as, first, preparative meetings, which commonly consist of the members of a meeting for worship; second, monthly meetings, each of which commonly consists of several preparative meetings; third, quarterly meetings, each of which consists of the monthly meetings; and fourth, the yearly meetings, which comprises the whole." "These meetings have all distinct allotments of service." The connexion of the several meetings, and their subordination, in the manner I have suggested, are here most plainly and unequivocally shown and established. The place which this clause occupies in the discipline or constitution, (and the latter name seems more familiar, or at least to convey to professional minds, more distinct ideas,) serves to illustrate its importance. It is mentioned at the commencement; as if, one of the first truths to be taught and known; as if, the very foundation of the structure of discipline raised upon it. The article on appeals speaks the same idea. A person ag-

grieved may appeal from the monthly meeting to the quarterly meeting, and the monthly meeting are in such case, to appoint a committee to show the reasons of their judgment, and submit it there, where the judgment is to be confirmed or reversed. From the quarterly meeting, an appeal may be taken to the yearly meeting, where a committee are to attend with copies of the records of the monthly and quarterly meetings, and where the matter is to be finally determined; and a copy of the determination is to be sent to the meeting from which the appeal came. In the article on meetings for discipline are contained the following clauses. "The connexion and subordination of our meetings for discipline, are thus, preparative meetings are accountable to the monthly; monthly to the quarterly; and the quarterly to the yearly meeting. So that if the yearly meeting be at any time dissatisfied with the proceedings of any inferior meeting, or a quarterly meeting with the proceedings of either of its monthly meetings, or a monthly meeting with the proceedings of either of its preparative meetings, such meeting or meetings ought with readiness and meekness, to render an account thereof when required." "It is agreed, that no quarterly meeting be set up or laid down without the consent of the yearly meeting; no monthly meeting without the consent of the quarterly meeting; nor any preparative or other meeting for business or worship, till application to the monthly meeting is first made, and when there approved, the consent of the quarterly meeting be also obtained."

Another clause requires monthly meetings to appoint representatives to attend the quarterly meetings; and that at least four of each sex be appointed in every quarterly meeting to attend the yearly meeting. Another clause is in these words: "The use and design of preparative meetings is, in general, to digest and prepare business, as occasion may require, which may be proper to be laid before the monthly meeting."

The connexion and subordination of these meetings, and their relative rank or station in ecclesiastical order, being thus plainly and conclusively shown and established by the highest authority, the revered and respected rule of government for this whole religious community, we may naturally expect, what accordingly we find, numerous instances of the exercise of authority, of the subsistence of this connexion, and of the fruits of this subordination, in the

conduct toward each other, of the respective meetings. From the examples which are abundantly furnished us in the evidence, I shall select a very few, and I prefer, for obvious reasons, to take them from the minutes of Burlington and Chesterfield meetings. The constant intercourse, by representatives, and the frequent appointment and attendance of committees from the yearly to the quarterly, and from the latter to inferior meetings, need only to be mentioned in general terms, to be brought fresh to the remembrance of all who know any thing of the ecclesiastical history of their own times or of their predecessors, or who have perused the testimony and documents before us. In second month, 1778, the quarterly meeting of Burlington directed the times of holding certain preparative meetings, so as to be convenient to a committee who were to visit them. In second month, 1820, the quarterly meeting refused to allow the holding of an afternoon meeting for worship, in Trenton, and directed their clerk to inform the monthly meeting of Chesterfield of their determination. In 1821, the Trenton preparative meeting requested of the monthly meeting, permission to continue their afternoon sittings, and leave for one year was given. In fifth month, 1825, the quarterly meeting declared, that certain persons admitted into membership in Chesterfield monthly meeting, were not members, and the clerk was directed to communicate this conclusion to that meeting and to the individuals. In fifth month, 1825, the quarterly meeting *annulled* the proceedings of the Chesterfield monthly meeting respecting the reception of a person as one of its members. In eleventh month, 1825, Trenton afternoon meetings were discontinued by order of the monthly meeting. In fourth month, 1826, the Trenton preparative meeting requested permission to hold an afternoon sitting, which, at the next monthly meeting was refused. In 1826, Thomas L. Shotwell, one of the parties in this cause, was disowned by the monthly meeting of Chesterfield. He appealed to the quarterly meeting of Burlington, where the disownment was confirmed. In the Chesterfield preparative meeting of sixth month, 1827, the extracts from the yearly meeting of fourth month, 1827, were produced and read. Contributions of money are statedly made, according to a prescribed ratio, and forwarded by the inferior to the superior meetings, and thus a stock, as it is called, is maintained in the

yearly meeting. Occasional, or *ex re nata*, contributions have also, at times, been made. The yearly meeting of 1827, recommended the raising of a large sum, three thousand dollars, for a work of benevolence, and the preparative and monthly meetings of Chesterfield pursued the recommendation, and bore their usual and proportional part in carrying it into effect.

A brief reference will show that individuals, as well as meetings and the book of discipline, recognise and maintain the connexion and subordination of the several bodies in the society. In the pleadings of the parties in this cause, the position is stated by each of them, especially by the interpleading parties, Hendrickson and Decow. To these documents, as far as the cause is concerned, it might suffice to refer, since whatever is admitted by both parties, is, as it respects them, incontrovertible. But a recurrence to the parts of the controversy, will show that what is said on this topic in the pleadings, is the very language and sentiment of this whole religious community. For the sake of brevity, I will content myself with mentioning the names of the witnesses, and the pages of the printed volumes, whither any one will resort who is disposed to examine them at large. Samuel Bettle, vol. 1. 62, 63, 83; Samuel Parsons, vol. 1. 170; Thomas Evans, vol. 1. 271, 272, 311; John Gummere, vol. 1. 316; Samuel Craft, vol. 1. 334; Abraham Lower, vol. 1. 379, 405; Halliday Jackson, vol. 2. 144, 178, 191; Charles Stokes, vol. 2. 218, 229; Josiah Gaskill, vol. 2. 297; James Brown, vol. 2. 321, 322.

From this view, it seems to me established beyond the reach of doubt, that according to the constitution of the society of Friends, a preparative meeting must be subordinate to and connected with a monthly meeting, which is connected with and subordinate to a quarterly meeting, which again is connected with and subordinate to a yearly meeting. There can be no preparative meeting which is not so connected and subordinate. To descend from generals to particulars, every preparative meeting within the bounds of the yearly meeting of Philadelphia, is, and must be connected with, and subordinate to, a monthly meeting connected with, and subordinate to, a quarterly meeting, which is connected with and subordinate to, that yearly meeting. There can be no preparative meeting within those bounds, which is not so connected and subordinate. From this constitutional principle, the follow-

ing rule results as a corollary. Every preparative meeting within those bounds, which is, through and by its appropriate links, connected with, and subordinate to, the yearly meeting of Philadelphia, is a "preparative meeting of the people called Quakers;" and any preparative meeting or assemblage of persons, calling themselves a preparative meeting, not thus connected and subordinate, is not a preparative meeting of that people.

In laying down these propositions, I expressly avoid, and do not propose to examine or decide, unless in the sequel I find it necessary, a question much agitated and discussed, whether a monthly meeting can be laid down without its consent. There is, however, another proposition connected therewith, which, so as to make use of it hereafter, if necessary, I shall state barely, without a protracted or tedious inquiry, because I believe no one will gainsay it. A preparative meeting, cannot be made or constituted within the bounds of its superior, the quarterly, or to speak more definitely, a new preparative meeting cannot be set up, within the bounds of the Burlington quarterly meeting, without the sanction of the latter body; that is to say, of the Burlington quarterly meeting, which is connected with, and subordinate to, the yearly meeting of Philadelphia. I avoid, for the present at least, another topic, or rather, I mean, in the propositions above stated, to express no opinion upon it, whether a superior meeting may control an inferior, in matters of property, or of a pecuniary nature; and also, another topic somewhat discussed in the examination of the witnesses, if not by the counsel on the argument, whether a superior meeting can, without appeal, reverse the decision of an inferior, or take cognizance directly and originally, of matters not coming, by way of appeal, through the subordinate meetings.

The general doctrine of the connexion and subordination of meetings for business, I shall now proceed to show, has been expressly applied to the preparative meeting of Chesterfield. And as this topic bears much upon the result of our inquiries, I must enter into some detail.

Joseph Hendrickson, in his answer, says, "There have been for many years past, a monthly and preparative meeting, of the said society of Friends of Chesterfield . . . at Crosswicks : . . . that the said meeting at Crosswicks, is under the control and jurisdiction of the said yearly meeting of Philadelphia : . . . that some of the members of a num-

ber of quarterly and monthly meetings, which were under the control and jurisdiction of the regular and constitutional, yearly meeting, at Philadelphia aforesaid . . . met at Philadelphia, on the third Monday in October, 1827, and then and there, irregularly, and contrary to discipline, . . . formed a new yearly meeting of their own, which was adjourned by them, to the second Monday of April, 1828; just one week before the time of the sitting of the regular constitutional yearly meeting : . . . that these religious dissensions and divisions found their way into the meeting of the society of Friends, at Crosswicks aforesaid : . . . that the ' Hicksite ' party, and ' Orthodox ' party . . . there, hold separate and distinct meetings, for business and worship, the former being under the jurisdiction and control of the new yearly meeting of Philadelphia aforesaid, to which they have attached themselves, having renounced the jurisdiction and control of the ancient yearly meeting aforesaid; the latter, being under the jurisdiction and control of the ancient yearly meeting." Stacy Decow, in his answer, says, " that for many years, there has been established, at Crosswicks, . . . a preparative meeting of the religious society of Friends, or people called Quakers, called and known by the name of the Chesterfield preparative meeting of Friends, held at Crosswicks. There is also a monthly meeting of Friends established at the same place. That this defendant is now, and has been for twenty years and upwards, a member of the said several meetings : . . . that the said Chesterfield preparative meeting of Friends, at Crosswicks, to which he belongs, is the same preparative meeting of Friends, at Crosswicks, under whose care, the said school fund was placed : . . . that the said Chesterfield preparative meeting of Friends, at Crosswicks, of which this defendant is a member, holds communication with the yearly meeting of Friends established in Philadelphia, which the said Joseph Hendrickson in his original bill, improperly calls the ' Hicksite ' party, . . . and which yearly meeting this defendant insists, is the yearly meeting of the ancient and true society of Friends. He denies that the society of Friends to which he belongs, have seceded from the faith, the religious institutions or government of the ancient and religious society of Friends, or from the ancient legitimate yearly meeting at Philadelphia; but the time of holding it has been changed from the third second day in the fourth month, to the second

second day of the same, . . . there being no constitutional time for the assembling of the yearly meeting, the time of holding it was changed to the time it is now held. . . . The said yearly meeting assembled again on the said second second day in the fourth month, 1828, and is now settled on its ancient foundations and principles. This defendant therefore denies that it is a new yearly meeting within the pale of one already in existence."

The testimony on this subject, of some of the witnesses, is to the following effect. John Gummere, vol. 1. Evid. 315, "Burlington monthly meeting, is a subordinate branch of Burlington quarterly meeting, which quarter is subordinate to the Philadelphia yearly meeting." Ibid. 318, "That yearly meeting . . . is held annually, on the third second day of the fourth month, at Arch street meeting house, in Philadelphia." Samuel Craft, vol. 1. Evid. 334, says, "From my earliest recollection, I have been a member of Burlington quarterly meeting, and for about thirty-six years past, I have been a member of Chesterfield monthly meeting. This monthly and quarterly meeting, now are, and have been, during all that period, subordinate branches of Philadelphia yearly meeting, held for many years past in the meeting house on Arch street, on the third second day in the fourth month, annually." Josiah Gaskill, vol. 2. Evid. 297, says, "The monthly meeting, which I am a member of, does consider itself members of Burlington quarterly meeting, which considers itself members of the yearly meeting of Friends held in Philadelphia, on the second second day of fourth month, at Green street." Ibid. 301, "The Burlington quarterly meeting . . . held at Chesterfield . . . have sent representatives to the yearly meeting of Friends held in Philadelphia, in fourth month ever since . . . the second second day in fourth month . . . at Green street, instead of Arch street: The yearly meeting at Green street, I consider the yearly meeting of Friends . . . and because it is the same yearly meeting which, prior to 1827, had been held in Arch street." James Brown, vol. 2. Evid. 321, says, "These quarterly, monthly, and preparative meetings, are but parts of the one great whole, the yearly meeting. . . . The Chesterfield monthly and preparative meetings were component parts of the Burlington quarterly meeting. The Burlington quarterly meeting, was a branch of the yearly meeting, which, in fourth month, 1827, was, and

for many years before had been held in Arch street, Philadelphia." He "attended most part of the yearly meeting in Arch street, 1827, as a member of the society, and belonging to Chesterfield monthly meeting." Ibid. 322, "We have not attached ourselves, as I apprehend, to any other yearly meeting of Philadelphia, that is reorganized, and held on the second second day in fourth month, annually. We do not consider ourselves members of the yearly meeting held there (in Arch street) since 1827." "That portion of the Chesterfield preparative meeting which continues to hold that meeting at the usual times and places;" (that is to say, the preparative meeting whereby Decow was appointed treasurer of the school fund, as is elsewhere shown and expressed) "acknowledge themselves, or claim to be, a part of the monthly meeting which still continues a member of the Green street yearly meeting." The testimony of the last witness, James Brown, demands peculiar attention from the station he held, as clerk of the preparative meeting of which Decow is a member, and from the confidence reposed in that officer by the usages of the society, and the intimate knowledge he must acquire and possess of the acts, connexions, and sentiments of the meeting.

It thus appears there were and are, two distinct bodies, each claiming to be the Chesterfield preparative meeting of Friends at Crosswicks, and each claiming to be the same meeting under whose care the school fund was placed, and yet, *de jure*, remains. I stop here a moment, to fix the time when these bodies were distinctly and separately organized, in order to ascertain whether it was before the appointment of Decow, as treasurer of the school fund. And on account of the connexion, it may be useful to look also, to the higher meetings. The separation in the Burlington quarterly meeting appears to have occurred in the eleventh month, 1827. Samuel Emlen, vol. 1. Evid. 325; Josiah Gaskill, vol. 2. Evid. 301; Charles Stokes, vol. 2. Evid. 207. The latter witness says, he "attended the Burlington quarterly meeting in the eleventh month, 1827. At that meeting a separation did take place." And in answer (229) to this question, "After the separation of which you have spoken, in 1827, did your quarterly meeting consider itself as a constituent branch of the yearly meeting held at Arch street, Philadelphia, on the third second day of fourth month?" He

answered, "The quarterly meeting considered itself a constituent branch of the yearly meeting of Philadelphia, which had been held some years previously at the Arch street house, on the third second day of fourth month; but which, owing to the circumstances which had grown out of the unsettled and divided state of society, it was concluded, should be held on the second second day of fourth month."

The separation in the monthly meeting at Chesterfield, or the session of two distinct bodies, and the transaction of business separately by these bodies, took place as early as ninth or tenth month, 1827. Samuel Emlen. vol. 1. Evid. 324, 328, 331; Samuel Craft, vol. 1. Evid. 336, 337; Josiah Gaskill, vol. 2. Evid. 284. He fixes the time, the tenth month, 1827, and says "There did a separation take place in Chesterfield monthly meeting in that month." He farther states, (296) that the Chesterfield monthly meeting with which he was united, did at their meeting in that month, appoint representatives on behalf of that meeting, to attend the contemplated yearly meeting to be held in Philadelphia, in that same month; and in this respect he is fully supported by the book of minutes, which is before us as an exhibit; and he farther testifies, that the representatives, with one exception, attended the yearly meeting in the tenth month, 1827.

The separation in the preparative meeting of Chesterfield, bears date in the twelfth month, 1827. Samuel Emlen, vol. 1. Evid. 325; Samuel Craft, vol. 1. Evid. 339, 347; Josiah Gaskill, vol. 2. Evid. 286. The latter witness says, (287) that after those who separated, left the preparative meeting, the meeting proceeded in first month, 1828, to appoint trustees of the school fund, and that Decow was appointed treasurer at the same meeting. The testimony of James Brown is very explicit and satisfactory on this topic, and its importance, from the station he held as clerk of the meeting, has been already suggested. He says, vol. 2. Evid. 323, that the appointment of Stacy Decow as treasurer of the school fund, was made after the time when the separation of the preparative meeting of Chesterfield into two bodies or meetings, each calling themselves the Chesterfield preparative meeting, took place.

It thus clearly appears, that before the appointment of Decow as treasurer, there were formed and existed, two distinct bodies, claiming to be the Chesterfield preparative

meeting of Friends; the one of them connected with a body calling itself the ancient yearly meeting of Friends of Philadelphia, which holds its sessions on the third second day of April in a meeting house on Arch street, and the other, and by which Decow was appointed, which disclaims all connexion with the above mentioned yearly meeting, is connected with another body calling itself the ancient yearly meeting of Friends of Philadelphia, which holds its sessions on the second second day of April in a meeting house on Green street. It also appears there are two separate bodies, styling themselves and claiming to be, the ancient and constitutional yearly meeting of Friends of Philadelphia. There is, however, and there can be, as is asserted and admitted by all, but one ancient yearly meeting, and but one body entitled to that appellation. This truth is distinctly admitted by the pleadings of the parties; it is plainly asserted by the book of discipline, which all who claim to be of the society of Friends, as do all the parties, and if my memory is correct, all the witnesses, in the cause, unqualifiedly admit to be their standard and their guide; and it is testified by several of the witnesses, whose depositions I have already noticed; to which may be added that of Halliday Jackson, an intelligent and well informed witness examined on the part of Decow, vol. 2. Evid. 155.

We are now brought to the inquiry, which of these two bodies or meetings is the ancient yearly meeting of Friends of Philadelphia; an inquiry which, if I may judge from my own feelings and reflections, is of the deepest interest and importance. There is, and can be but one Chesterfield preparative meeting of the society of Friends. There is, and can be but one yearly meeting. A preparative meeting must be connected with the yearly meeting of Philadelphia, and without such connexion, no assemblage is a preparative meeting. One of these bodies, or preparative meetings, is connected with the one, and the other with the other of the yearly meetings. Which then is the yearly meeting? Or to confine our inquiry within the only requisite range, is the meeting or body assembling on the second second day of the fourth month at Green street, the ancient yearly meeting? If it is, Decow is the treasurer. If not, as I have already shown, Hendrickson, once the acknowledged treasurer and the obligee, named as such in the bond, is

entitled to the money. When such consequences hang on this question, may I not call it interesting and important? May I not stand excused, if I approach it with great anxiety and deep solicitude?

In the latter part of the seventeenth century, and at a very early period in the progress of the settlement of New Jersey and Pennsylvania, the number and condition of the followers of George Fox, or the people called Quakers, rendered it desirable they should be brought under a common head, according to the form of ecclesiastical government adopted in England and already existing in some of the more ancient colonies. In the year 1681 or 1685, (the precise time seems to be controverted, and cannot influence our present pursuits,) a yearly meeting was established, comprehending the provinces of New Jersey and Pennsylvania, and the members of that religious society and their already organized meetings and judicatories of inferior grades. This body was not a mere incidental, casual, disconnected assemblage, convening without previous arrangement, ceasing to exist when its members separated and formed anew when individuals came together again at some subsequent time. It was a regularly organized and established body, holding stated sessions, corresponding with other bodies of the same religious denomination, consulting together for the welfare of a portion of their church and its members, the ultimate arbiter of all differences, and the common head and governor of all belonging to the society of Friends, within its jurisdiction, which extended over the territories just mentioned, while they were called provinces, and since they assumed the name and rank of states. The meetings of this body were held annually, as its name imports, and as long and steady usage has wrought into a part of its essential structure. The time and place of convention are subject to its control, and have, accordingly, in several instances, been fixed and altered by it. The time and place, however, when and where only the body can constitutionally assemble and act, must, when fixed, so remain, until "the voice of the body," "in a yearly meeting capacity," which alone has the power and right "to govern its own proceedings," shall resolve on and enact a change. Such, is certainly the rule of constitutional law, as applicable to this body; and such was their own practical construction of it in the year 1798, when in the conscientious dis-

charge of duty, they assembled, undeterred by the ravages of pestilence and the arrows of death. From the year 1685, for nearly a century and a half, this body held its periodical sessions; for years, alternately at Burlington and Philadelphia, and finally in the latter city alone; and there, successively, at their houses on Pine street, on Keyes' alley, and on Arch street. Changes in time and place have occurred; but always by a previous resolve, by "the voice of that body," "in a yearly meeting capacity." In 1811, the place was fixed in the meeting house, on Arch street. In 1798, the time was changed to the third second day of the fourth month of each year; and by the book of discipline, promulged by the yearly meeting in 1806, and as already observed, the acknowledged constitution of this religious community, the latter day is declared the period for its convention. No other day is mentioned; no other day is provided for under any circumstances; nor is any occasional, intermediate, or special meeting authorized.

In the year 1826, at the prescribed time and place, a meeting was held. After the transaction of its business, it adjourned, according to the ancient and wonted form, "to meet in the next year at the usual time." This body thus convened and thus adjourned, was, without dispute, the Philadelphia yearly meeting of Friends. On the third second day of April, 1827, at the house on Arch street, the designated time and place, a meeting assembled. It was composed of the representatives from the several quarterly meetings, and of all such individuals as inclination or duty had brought together. The regular constituent parts were there. Those who are since so openly divided by name, perhaps by feeling, peradventure by principles, then sat down together; one in form, if not in spirit; in unity of body, if not of mind. The clerk of the preceding year, according to ancient rule, opened the meeting in due order, for however simple, there was, nevertheless, an established ceremony. The representatives were called, certificates of visting strangers were received, epistles from corresponding bodies were read, committees were arranged, the usual affairs of the occasion were transacted in unity and peace. The representatives were, in wonted manner, desired to abide for the next step in the progress of business. This body thus convened, was assuredly the yearly meeting; and up to the close of the

forenoon, it sustained its constitutional existence. If that assemblage ceased to be the Philadelphia yearly meeting, something which occurred subsequent to the close of the first sitting must have wrought out that result.

Such result was produced, say the defendant, Decow, and the meeting whereby he was appointed treasurer. This body ceased to be the yearly meeting of Friends, was dissolved, broken up "into its individual elements," (Abraham Lower, vol. 1. Evid, 421,) and reorganized, in the ensuing autumn, in the yearly meeting which assembled in Green street, which became invested with the constitutional powers and rights incident to the Philadelphia yearly meeting, and, the successor, or rather the continuance of the same body, which had been formed in the seventeenth century, at Burlington, and had from thence conducted and governed the affairs of the society, and connected with itself the subordinate meetings, and this whole religious community.

Our next duty then, is to examine the causes which are alleged to have deprived this body of constitutional existence. And these are, first, the acts of the body in a collective capacity; second, the omission of the body to perform certain collective duties; and third, the designs, plans, views, feelings and acts of individual members. Under one or another of these, is comprehended, it is believed, every operating cause suggested in the pleadings, in the testimony of the witnesses, and in the arguments of the counsel.

The only acts alleged against the body in a collective capacity, are two in number. First, the appointment of a clerk of the meeting; and secondly, the appointment, near the close of the session, of a committee to visit the subordinate meetings.

First, the appointment of clerk to the meeting. To regard the act against which this complaint is directed *as the appointment of a clerk*, is an entire misapprehension. It was, in truth, no more than the continuance in office of the former clerk; and as it seems to me, so far from an act of the body in its collective capacity, in violation of any rule, it was a strict, and under the circumstances in which the meeting was placed, an unavoidable compliance with, and adherence to, the ancient custom and order of the society.

According thereto, the nomination of clerk is to be

made, not in or by the meeting at large, but by the representatives, as they are called, or in other words, the persons deputed by the several quarterly meetings to attend, not merely as individuals, but as the organs of those meetings, in their official character.

The representatives, pursuant to the request already mentioned, remained at the close of the forenoon session, to discharge this duty. It is not my purpose to inquire into, or relate in detail, what passed among them. In the result, they could not agree, or did not agree, on the names of any persons to be proposed for the offices of clerk and assistant; and a report to this effect was made to the yearly meeting, when it opened in the afternoon. No nomination was offered. Put, now, the case in the strongest view; suppose the representatives had wantonly, or in neglect of their trust, omitted to propose names to the meeting? Was all further proceeding at an end? Was the meeting closed? The Book of Discipline, it is true, prescribes no guide or directory under such circumstances. But ancient custom, founded on the obvious dictates of reason, had established in this respect an operative law. The clerk and his assistant, of the preceding year, were to act, and without any new appointment or induction, were authorised to continue or discharge their appropriate functions, until the names of other persons were regularly brought forward, and united with, or in other words, appointed. In accordance therewith, and in view of the condition of the meeting, and of the difficulty which existed, an aged member (William Jackson) who had attended more than sixty years, and had thus acquired experience, perhaps beyond any individual of the assembly, rose and stated, that "it had been always the practice for the old clerks to serve until new ones were appointed;" and he proposed to the meeting, "that the present clerks should be continued for that year." (Thomas Evans, vol. 1. Evid. 265.) Some difference of opinion occurred and was expressed, as to the course most eligible to be pursued. Some persons wished to refer the subject again to the representatives, for farther consideration. "Several of the representatives gave it as their opinion, there would be no advantage in so referring it, as there was not the smallest probability that they could agree. The first person who expressed this opinion, was one of those who have since" united with the meeting in Green street, "and he added,

that although he should have been in favour of a change in the clerk, if it could have been satisfactorily accomplished, yet as that was not likely to be the case, he thought the meeting had better proceed with its business. Several others of the same party expressed similar sentiments. Meanwhile a considerable number of those" who remain attached to the Arch street meeting, "expressed their approbation of the continuance of the present clerks, and a minute *desiring the old clerks to continue to serve the meeting,*" (Samuel Bettle, vol. 1. Evid. 68,) was made and read. "On the reading of the minute, some of those who" now belong to the Green street meeting, "still continued to object, when one of their number remarked, he believed it was the best thing the meeting could do, under all the circumstances, and advised them to submit to it, as he did not think it would make so much difference to them, as some of them might imagine. Similar sentiments were expressed by one or two others of that party, and all objections to the appointment having ceased, John Comly, the assistant clerk, was requested to come to the table. He did not immediately do so, nor until several of his friends expressed that they thought that the business of the meeting had better go forward." The usual business then proceeded. This view, is chiefly extracted from the testimony of Thomas Evans. It is fully sustained by the depositions of Samuel Bettle and Joseph Whitall, and is, in no material point, impugned by any contradictory evidence. Some other witnesses, who speak of these transactions, are not so full and minute in detail, and some, it is to be regretted, do not recollect the occurrences of very interesting moments; as, for example, one of them, speaking of the afternoon of the first day, and having related some of the events, added, "The meeting proceeded on that afternoon. I don't remember particularly what took place." (Halliday Jackson, vol. 2. Evid. 54.) In their opinions, in their inferences, in their feelings, we observe, as might be expected, a difference among the witnesses, but it is pleasing to meet with no such collision of facts, as to render necessary the delicate and arduous duty of weighing and comparing evidence.

It is however said, the greater number of the representatives wished to release the former clerk, and to nominate another in his stead; that a proposal was made to take their sense by a vote; and that this measure, which

would have resulted in a majority for a new clerk, was prevented and defeated, by the conduct of those who sought to retain the services of the former officer.

One of the peculiar and distinguishing characteristics of this people, consists in their mode of transacting business and arriving at conclusions; in which, rejecting totally the principle that a majority, as such, is to rule, or decide, or govern, they arrive at an unity of resolution and action, in a mode peculiar to themselves, and entirely different from that common to all civil or political, and to most ecclesiastical bodies. They look and wait for an union of mind; and the result is produced, not by a vote, or count of numbers, but by an yielding up of opinions, a deference for the judgment of each other, and an acquiescence or submission to the measure proposed. Where a division of sentiment occurs, the matter is postponed for farther consideration, or withdrawn or dismissed entirely; or, after sometimes a temperate discussion, and sometimes a silent deliberation, those who support, or those who oppose a measure, acquiesce in the sense of the meeting as collected and minuted by the clerk; and they believe the "spirit of truth," when the meeting is "rightly gathered," will be transfused through their minds, and they will be guided and influenced "by a wisdom and judgment better than their own," and that their clerk will be led to act under "the overshadowing of that power, which is not at his command, and which will enable him to make proper decisions." One of the witnesses examined on the part of Decow informs us, the clerk, "collects, not by an actual count of numbers, or recording the yeas and nays, yet by an estimate of the prevailing sense, which the meeting, after discussion, usually settles with sufficient distinctness, one way or the other." (Charles Stokes, vol. 2. Evid. 249.) The account given by Clarkson, in his Portraiture of Quakerism, is represented to be correct, although never expressly recognized by the society. "When a subject is brought before them, it is canvassed to the exclusion of all extraneous matter, till some conclusion results; the clerk of the meeting then draws up a minute, containing, as nearly as he can collect, the substance of this conclusion; this minute is then read aloud to the auditory, and either stands or undergoes an alteration, as appears by the silence or discussion upon it, to be the sense of the meeting; when fully agreed upon, it stands ready to be re-

corded." (1 *Clarkson's Portrait. Quak.* 157.) The world at large, and especially those who have not closely observed the practical operation of these principles, in the peace and harmony and prosperity of the internal affairs of this religious community, may be strongly inclined to call in question their expediency. A republican spirit may see no just rule, but in the voice of a majority. A jealousy of power may suspect too much confidence in the fairness and candour of the clerk. But the conclusive answer to all such suggestions and suspicions is, that they are free to act as their judgments and consciences may dictate. We are not to interfere with their church government any more than with their modes of faith and worship. We are to respect their institutions, and to sustain them. Nor can any individual be hereby aggrieved. He is under no restraint to remain among them. Whenever he is persuaded that either their faith or their practice, does not accord with his own views of reason and Scripture, he is at liberty to leave them, and to seek elsewhere, more purity, more spirituality, more christian and Scripture order, more safety, more republicanism, or more peace. The constitution of this society, neither recognizes nor makes provision for a vote, or a decision on the principle of numbers, in any instance or predicament. The minutes and journals of the various meetings, not merely within the bounds of this yearly meeting, but within the pale of the whole society, do not furnish, so far as we are able to learn, a single record of a vote taken, or a count of numbers. The instances of reports made by the major part of committees, form no exception to the universality of this rule of action. Nor do the few, I say few emphatically, compared with the myriads of decisions standing on their records, nor do the few minutes, which industry has gleaned up, of expressions like these: "the greatest part of Friends think it best," or "it appears to be the most general sense," serve to show that a vote was taken, or that numbers, as such, prevailed, or that the minor part did not freely relinquish their views, and cordially acquiesce in those of the greater part. Let us, for example, look to the minutes of Chesterfield monthly meeting, of sixth month, 1691, because it is, of Chesterfield, and of very ancient date. "The building of the meeting houses being taken into consideration, a meeting house on this side is generally agreed upon to be built, and the greatest part of

Friends think it best to have it at the grave yard." Here is no allusion to a vote, nor any thing to indicate that all did not acquiesce in what the greatest part thought best. Barclay, in his treatise on church government, gives the following explanation, and most pointedly condemns the rule of the greatest number. "The only proper judge of controversies in the church, is the spirit of God; and the power of deciding lies solely in it, as having the only unerring, infallible and certain judgment belonging to it; which infallibility is not necessarily annexed to any persons, person or place, whatever, by virtue of any office, place or station any one may have, or have had, in the body of Christ; that is to say, that any have ground to reason thus, because I am, or have been, such an eminent member, therefore my judgment is infallible, or because we are the greatest number." (*Barclay on Church Government*, 78.) Hence then, I think, we are not called to inquire how far the allegation as to the relative numbers of the representatives is correct, and we may justly dismiss from farther consideration, the objection that the old clerk would not have received a majority of votes. The very proposal to take a vote, was an overture to depart, and the consummation of it would have been a departure, from an ancient and unvarying practice, which had not only grown up to an overshadowing tree, but had its root in religious faith, and was nourished and sustained by religious feeling.

The inquiry too, is of little importance, since, as I have shown, the omission of the representatives to agree in, and propose a nomination, only resulted in a continuance of the former officers, and did neither abridge, impair or destroy, the power of the meeting to provide for collecting and recording their acts and proceedings.

Let us, then, return to the yearly meeting. Here again it is said, a majority was opposed to the farther service of the former clerk, and his continuance contrary to their will, was not only an oppression of the few over the many, but was in fact a dissolution of the body. I am not able to say, from the evidence, if in any wise material, that even at the outset, this continuance was inconsistent with the wishes of the greater part of the meeting. But if such were the truth, it is abundantly shown, there was an acquiescence in the measure, even if an unwilling one. And this acquiescence was brought about by the agency and recommendation of some of those, who are now the mem-

bers of the rival yearly meeting. The following facts are stated by the witnesses. "A proposition came from a leading member," (Joseph Whitall, vol. 1. Evid. 218.) After the minute was read, "one of their number expressed his belief it was the best thing the meeting could do under all the circumstances, and advised them to submit to it." (Thomas Evans, vol. 1. Evid. 266.) "One, and perhaps, there were others, stated as their belief, it would be right, and encouraged his friends to accede to the proposition" for the continuance of the former clerks. (Joseph Whitall, vol. 1. Evid. 217.) "Efforts were made by persons, who have since" united with the Green street meeting, "to induce an acquiescence with the minute. At length, all opposition ceased." (Samuel Bettie, vol. 1. Evid. 69.) Here, then, might have been opposition and dissatisfaction at the outset. But it is clear there was an ultimate acquiescence. And it is too much for any one, especially for those who took an active and influential part in bringing about this result, perhaps we may say, actually induced the peaceful result, to make it the subject of complaint, or to insist that the existence of the body was thereby destroyed.

There is another fact worthy of much consideration, in looking into the propriety of these proceedings, which is, that no person, save Samuel Bettie, the former clerk, was proposed for the office. The importance of this circumstance in civil affairs, is thus shown in the recent American treatise on the law of corporations. "Where a majority protest against the election of a proposed candidate, and do not propose any other candidate, the minority may elect the candidate proposed." *Angel and Ames on Corp.* 67.

After all these events, I can have no hesitation in yielding to the entire and unqualified conviction, that the body remained in its pristine vigour, and proceeded to business as the Philadelphia yearly meeting of the society of Friends.

The other act, whereby it is said, the discipline was violated, the society separated, and the constitutional existence of the yearly meeting destroyed, is the appointment of a committee to visit the subordinate meetings.

It would be very difficult, I think, to demonstrate, that an act of this nature, if not warranted by the discipline, or even if inconsistent with it, could work such sweeping results. The purpose and authority of this committee,

were simply to visit, counsel and advise the inferior meetings, with no power, whatever, to act upon or control the rights or interests of any one, save by measures of persuasion. How far the temper or motive, which led to the appointment of this committee may have been reprehensible, I shall examine under another head. It is to the act alone, that my attention is now directed; and the act itself, was, in its nature, harmless. Let us, however, look more closely into the circumstances. They are thus represented by one of the witnesses. "A proposition was brought from the women's meeting to appoint a committee to visit the quarterly and monthly meetings. This called forth a great deal of excitement, and great opposition was made to it. Even some few of the 'Orthodox' party themselves did not, at first, appear to approve of it. But there were others of that party that strenuously urged the propriety of such a committee being appointed, and as they seemed to understand one another pretty well, apparently, they pretty soon united in urging the measure. It was, however, strongly opposed by much the larger part of the meeting, I cannot undertake to state the proportions, but I should think myself safe, in saying two thirds of those that spoke. But it seemed all of no avail, and having a clerk at the table subject entirely to the dictates of his party, he made a minute and took down the names of the committee that were offered to him. No Friend, I believe, undertook to mention a name." (Halliday Jackson, vol. 2. Evid. 56.) Another witness gives the following representation. "At the last sitting on seventh day morning, a proposition was introduced from the women's meeting to appoint a committee to visit the respective subordinate meetings for their strength and encouragement. To this there was a decided objection made; some Friends then in the meeting and now attached to each of the parties, opposed it. The doubt of some was, that it had better not be decided at that time; with others, there was a decided opposition to the measure. At this juncture, a Friend stated to the meeting the out door proceedings, the private meetings, and opened the whole subject. It appeared to me evidently, to create uneasiness and alarm on the part of those who had been concerned in those meetings; some of them called in question the accuracy of the statement that had been made, and seemed disposed to deny it; some did deny it; others, how-

ever, said that the general statement was correct, and acknowledged it. The propriety of appointing a committee under such circumstances, appeared so very obvious, that the opposition, in a great measure, ceased for that time; after which there was a greater and more general expression of unity with the measure, than" the witness, a clerk of several years' experience, "had often, if ever, seen or heard." "I had," says the witness, "been watching the course of events, as clerk of the meeting, to know how to act, and when all opposition had ceased, and it was very apparent it was the sense of the meeting that the appointment should be made, I rose and stated that I had had my doubts, when this proposition was first brought in, whether it was expedient to adopt it at that time, but as the servant of the meeting, it being manifestly its sense, I should now proceed to make the minute, and accordingly made it, and united with them in their views; and a committee was appointed pursuant to the minute." (Samuel Bettle, vol. 1. Evid. 69.) Whatever difference may be in these statements as to matters of opinion; whatever suspicions may have been enkindled; whatever motives or designs may be imputed, here is no substantial discrepancy as to points of fact.

Was then, the appointment of such a committee, a novel, and therefore, an alarming occurrence? More than one witness testifies, and no one denies, that it was an ancient custom of the society. (Samuel Bettle, vol. 1. Evid. 70. Halliday Jackson, vol. 2. Evid. 133.) Had the meeting power to make such appointment? Aside of the multitude of unquestioned precedents, a witness says, "during the discussion of the proposition, there was no suggestion of a doubt of the right and power of the yearly meeting to appoint such committee; the difference of opinion was confined to the expediency of making the appointment at that time." (Samuel Bettle, vol. 1. Evid. 70.) Was the purpose of the appointment laudable? It was to advise and counsel the inferior meetings, in the language of one of the witnesses, "for their strength and encouragement." And if the design was to prevent schism and separation, the end was, surely, commendable; and if the measures taken to attain it, were otherwise, the censure should rest on the committee, the agents, and not on the meeting, the constituents. Was partially exercised by the clerk, or any other person, in the selection of the committee? No name

which was proposed was rejected. Was there opposition to the appointment? Strong and decided at the outset. Was there at length, an acquiescence? "A greater and more general expression of unity than usual," says one witness. "The opposition pretty generally, if not altogether ceasing," says another witness, "the meeting proceeded to appoint." (Joseph Whitall, vol. 1. Evid. 218.) Another says, "As all opposition ceased, a minute was made, and the committee appointed." (Thomas Evans, vol. 1. Evid. 268.) These matters of fact, are, I believe, uncontradicted. One of the witnesses, indeed, intimates that the clerk made the minute, being subject entirely to the dictates of his own party. But the clerk, himself, whose veracity and candour are not only above reproach, but beyond suspicion, and who surely best knew his own motive of action, says, that though doubting at first the expediency of the measure, he made the minute, as the servant of the meeting, and because it was manifestly their sense that the appointment should take place.

Upon a careful examination of this measure, I can see nothing, either in the act itself, or in the manner of its inception, progress or adoption, subversive, in the slightest degree, of usage or discipline, and least of all, any thing of such vital influence as to break asunder the bonds of union, disfranchise the meeting, deprive it of constitutional existence, disrobe it of ability farther to execute its ancient and appropriate functions, or to release from their allegiance all those who previously owed fealty and submission to it.

These, then, are all the overt acts of the meeting, which have been made the subject of complaint. It would, however, be a great error to suppose that a session of five or six days was spent in these matters, alone. Much other important business was transacted; all, I believe, it may be said, of the usual stated duties were discharged. Halliday Jackson, gives the following brief but satisfactory account of what was done. "The business of the yearly meeting was proceeded in; and the usual subjects that occupy that body, such as considering the state of the society from the answers to the queries that are brought up from the different quarterly meetings in their reports; the reading of the minutes of the meeting for sufferings; reading reports from the committee who stood charged with Westown school, and some other matters; which occupied

the meeting through the week." (vol. 2. Evid. 55.) Another witness says, "All the business usually transacted at a yearly meeting, was gone through with, and several acts consummated, which no other body than the yearly meeting of Philadelphia was competent to perform." (Thomas Evans, vol. 1. Evid. 267.)

Having thus reviewed what was done, we are now to turn our attention to what was not done by the meeting; for the latter as well as the former, has been urged as an act of separation and disfranchisement of the yearly meeting.

Certain subjects, regularly brought before that body, were not acted upon, but postponed. "When the reports," says one of the witnesses, "were taken, or the subjects contained in the reports, from the different quarterly meetings, which were considered as new matter; such as the account from the southern quarter respecting the meeting for sufferings, rejecting their representatives, and an application, I think, from Bucks' quarter, respecting the manner of choosing representatives to constitute the meeting for sufferings, together with . . . two cases that came up from Philadelphia quarter . . . They were all put by, and not acted upon, except the matter in relation to Leonard Snowdon's case, which if I remember right, was returned to the quarterly meeting. It seemed to be pretty generally understood, that the meeting was not in a qualified state, owing to the interruptions to the harmony that had taken place, to enter upon the investigation, or more properly, the consideration of these subjects." (Halliday Jackson, vol. 2. Evid. 55.) It should be observed in general, that these subjects were not the regular stated business of the meeting, but occasional or special. In this remark, I do not mean to deny or detract from their importance, or the propriety of their having, at a suitable season, the most careful attention, but simply to show their real nature and character; and that to act on or omit them could not touch any vital part of the constitution of this body. A much more important consideration, is that the disposition of these subjects, the course which was adopted and pursued in respect to them, was the united act, and according to the common wish, of all parties, of even those by whom, or through whose instrumentality, they were brought before the meeting. This important fact is denied by no witness, and is expressly declared by more than one.

The statement of one I have just now given. Farther being asked, if the subject from the southern quarter was not dismissed at the suggestion of Robert Moore, a member from that quarter, he answered, "When that subject was brought before the yearly meeting, it was drawing towards the close of the week, and by that time it was evident the yearly meeting was not in a qualified state to act upon any important subject; and therefore, that subject, as well as two others, were dismissed without being much urged by Friends. I have not a clear recollection, but it seems to me, that Robert Moore did say something about that subject from the southern quarter." Being asked if the subjects from Bucks and Abington were not dismissed at the instance of John Comly, he answered, "I have no recollection of who spoke first on the subject; John Comly was sensible of the state the yearly meeting was in; and I can state what I have frequently heard John Comly say, that Samuel Bettie first suggested to him the propriety of having those subjects dismissed, all those subjects that came up in the reports, and wished John Comly to use his influence with his friends to have those subjects from Bucks and Abington dismissed, and he, Samuel Bettie, would use his influence with his friends to have that subject passed over that was coming up from Philadelphia quarter; which subjects it was apprehended, would produce a great deal of excitement in the yearly meeting, and which Samuel Bettie feared the consequences of; but how far that influenced John Comly in favour of putting off those subjects, I cannot say." (Halliday Jackson, vol. 2. Evid. 132.) Another witness, Abraham Lower, being asked whether the propositions from Bucks and the southern quarter, were not disposed of, at the instance of members from those quarters respectively, and who, since the separation, have joined that portion of the society with which he was in unity, answered, "I have no recollection of the members of those quarters making such a proposition, but I should think it quite probable." (Abraham Lower, vol. 1. Evid. 392.) And the same witness, in another place, testified, "as that yearly meeting was acknowledged not qualified to enter upon the matters brought up from the quarters, that case with others was concluded not to be attended to." (Abraham Lower, vol. 1. Evid. 373.) Samuel Bettie says he mentioned to John Comly, "Had you not better withdraw the proposition

for a change . . . coming from Bucks, Abington, and the southern quarter? He said he thought so too, united with me fully in that view, and said they had better be withdrawn, as it was not likely they would ever be adopted, and would only occasion confusion and difficulty. The propositions, when again brought before the meeting, were withdrawn by common consent." (Samuel Bettle, vol. 1. Evid. 69.) Thomas Evans testifies thus, "Those subjects were all connected with, or had grown out of the controversy, respecting the doctrines of Elias Hicks, and as there was a general understanding that his friends were about to separate and form a society of their own, those subjects were at their suggestion, or by their consent referred to the meetings from which they had come, or suspended." (Thomas Evans, vol. 1. Evid. 276.) "In the disposition of these subjects, there was a united conclusion of the meeting, after as full an expression of opinion as is usual; and those that took part in this business, some now belong to the new meeting, and others remained with the old society, and participated with the deliberations of the meeting which led to those conclusions." (Samuel Bettle, vol. 1. Evid. 87.)

Thus, then it appears, these omissions took place, certainly with the consent, and probably, at the request or upon the suggestion of the very persons who now complain. Under such circumstances, this measure, by no means unusual, for Abranam Lower testified that he has known cases brought to the yearly meeting and laid over for the consideration of the next, does not afford ground for censure, much less for annihilation, and least of all on the objection of those who, if they did not actually bring it about, were consenting thereto.

But, it is said, the meeting was not in a qualified state to enter upon the consideration of these subjects. What then? Was this unqualified state peculiar to one portion, or common to all? Was the meeting thereby dissolved? If wonted harmony ceased to prevail, if the minds of the members had become so sensitive on particular points that the introduction of them would produce agitation and excitement, unfavorable to cool, deliberate and dispassionate investigation and decision, it was the part of prudence, of christian forbearance, of enlightened reason, of patience and meekness, and of that spirit of peace and submission which, may I not say without offence to others,

so eminently characterizes this religious denomination, to wait in humble expectation of the overshadowing of that Power who can say, as well to the stormy passions of the human breast as to the torrent and the whirlwind, "Peace, be still." But if such a state of things be a dissolution, no human society can be held together, and attempts at order and government, instead of the means of curbing, and restraining, and controlling the wayward passions of man, do but afford him the opportunity of giving them extended and unbridled influence and action.

Besides these considerations, which are, I trust, sufficient, conclusively to sustain the meeting in its constitutional existence, there are some others, founded on the acts and conduct of the members, and the component parts of the society at large or the subordinate meetings, which incontrovertibly evince the acknowledged existence of the meeting, and its direct recognition as such, not only during its session, but after it had closed its services for the year.

John Comly, and I feel at liberty to refer to him, though an individual, from his eminent standing and distinguished character, both private and public, as a man and as a minister, as well as from the prominent part he bore in the transactions which attended the separation in this society. John Comly acted throughout the meeting, from the commencement to the close, as its organ, as an officer of the yearly meeting of Philadelphia. He did, indeed, request to be excused from serving in that capacity. But the fact remains that he did serve, and the reasons that he gave for being inclined to withdraw, strengthen the inferences to be deduced from the fact. Few men are, I believe, more distinguished for purity, candor, and every other virtue. Did he say, I cannot serve this meeting, because I am not lawfully and rightly appointed an assistant, and to act as such, would be, in me, usurpation and oppression? Did he say, he had been recorded as assistant "in opposition to the voice of the larger part of the meeting?" Did he say, "the hedge was broken down;" the meeting was disorganized, a revolution had occurred, there was no longer a yearly meeting, but the society was dissolved into its original elements? Halliday Jackson testifies thus: "The next morning, I believe, John Comly did not take his seat at the table, at the opening of the meeting, as usual." In this particular, perhaps not a very

important one, the witness afterwards corrected himself, and said he believed Comly took his seat at the table by the side of the clerk, when he first came into the meeting, (vol. 2. Evid. 132) "but soon after, he got up, and made a very forcible appeal to the yearly meeting. I think he regretted the state and dilemma into which the yearly meeting appeared to be brought; that there were two parties, evidently two parties, that appeared to be irreconcilable to each other, and therefore not qualified to proceed in the weighty concerns of a yearly meeting under those trying circumstances, and proposed that the yearly meeting might adjourn, and Friends endeavour to get cool and quiet in their minds, and that possibly they might be favoured to come together again at some other time, and be more in the harmony. . . . And although John Comly expressed his uneasiness at acting as assistant clerk, at the request of some of his friends, and some of the other party, also, he submitted again to go to the table." (H. Jackson, vol. 2. Evid. 54.) Other witnesses state the transaction, not differently, though somewhat more fully. "On third day morning, immediately after the opening minute was read, John Comly rose and stated, that he had mentioned at the previous sitting, that he should go to the table in condescension to the views of his friends, and that it was in that feeling that he was now there; that the meeting was divided into two distinct and separate parties, and that under present circumstances those parties were irreconcilable; that each of these parties was striving for the mastery, and that if either of them gained the ascendancy, it must be to the grievance and oppression of the other. He therefore proposed that the meeting should suspend all farther business, and adjourn; but if the meeting was resolved to proceed in its business, at all hazards, he could not conscientiously act as the organ of a meeting made up of such conflicting parties, and must therefore request to be permitted to retire. His proposal . . . was but feebly supported. . . . His party strongly objected to his leaving the table, urged his continuance, and that the meeting should now proceed with its business. John Comly then rose and stated, that as he found the meeting was not prepared to adjourn, he was willing, after the usual expression of approbation, to determine the sense of the meeting on his remaining at the table, so to continue, and

to proceed with the business." (Thomas Evans, vol. 1. Evid. 266.) "He took his seat, prepared to act, and the business did progress, he acting as usual, without making any farther objection on his part." (Samuel Bettle, vol. 1. Evid. 69.)

Having seen the conduct of this very active and very useful member, as he is called by one of the witnesses, (Abraham Lower, vol. 1. Evid. 392.) let us briefly advert to that of the other members of the meeting, who now belong to the meeting in Green street.

Their urgency that John Comly should act as assistant clerk, and that the business of the meeting should proceed, has just been mentioned. "The yearly meeting of 1827, was entirely conducted as it had been on previous occasions." (Samuel Bettle, vol. 1. Evid. 94.) "During that meeting, persons who have since joined the other meeting, were appointed on committees, and took an active part in the concerns of the meeting throughout." Ibid. In the afternoon of the first day's meeting, some of the friends of John Comly "expressed, that they thought the business of the meeting had better go forward." (Thomas Evans, vol. 1. Evid. 266.) "During all the remaining sittings of the yearly meeting, he [John Comly] and his friends continued their attendance, took part in its deliberations, assented or dissented from its conclusions, as opinion led them, and addressed it as the yearly meeting of Philadelphia." (Thomas Evans, vol. 1. Evid. 267.) "During the last hour of the sitting, all the proceedings were read over, as is usual, at the close of the yearly meeting; no objections were made by any one, to any part of the minutes; the concluding minute was also read, adjourning the meeting until the next year, at the usual time and place, if the Lord permit." This conclusion is the form common on such occasions. "After this minute was read, a considerable pause ensued; there was no objection made to it, and Friends separated from each other in the usual manner." (Samuel Bettle, vol. 1. Evid. 70. Thomas Evans, vol. 1. Evid. 268.) "Those who have since" joined the Green street meeting, "were generally present at the time of the adjournment. The yearly meeting was as large and numerous at the last sitting, as at any sitting during the week." (Joseph Whitall, vol. 1. Evid. 218.)

One of the transactions of this meeting deserves, in the

present connexion, particular notice. "There was one matter before the meeting which was of a humane and benevolent character, that Friends, perhaps of both parties, were pretty much united in." (Haliday Jackson, vol. 2. Evid. 56.) "That was to raise three thousand dollars to aid our brethren in North Carolina, in removing out of that state, many hundred coloured people, eight or nine hundred of them at least, who were under the care of the Carolina yearly meeting, and whose liberties were in jeopardy, unless they removed out of the state. This sum it was proposed should be raised by the different quarterly meetings, in the usual proportions. This was entirely united with; not a single dissentient voice; a great many expressing their views, and a minute was made, directing the quarterly meetings to raise the money and pay it to Ellis Yarnall, the treasurer of the yearly meeting. The quarterly meetings that compose the yearly meeting, all assembled, and in conformity with the direction contained in the extract from the yearly meeting, raised their quotas of the three thousand dollars, and paid it to Ellis Yarnall, the treasurer." (Samuel Bettie, vol. 1. Evid. 70.) Chesterfield preparative meeting, bore its wonted part. This transaction is of an unequivocal character. The resolve was an act, not of private or individual benevolence, but of the meeting in its collective capacity. The recommendation, by the extract, was such as that meeting alone could perform. All, we are told, united in it. Not a dissentient voice. It was received by the several quarterly meetings as an act of the yearly meeting, and carried into effect as such, and the monies were transmitted to the treasurer; thereby making, after the close of the yearly meeting, a direct recognition of its existence and authority. The effect of these circumstances cannot be weakened by the "humane and benevolent character" of this work of charity. It was indeed proof of a noble and munificent spirit. But suppose the general assembly of the presbyterian church, or the protestant episcopal convention, had sent missives or extracts to the quarterly meetings enjoining the donation, and to make their treasurers the channels of conveyance, would the call have been obeyed?

I do not pause to answer, but proceed to the consideration of another of the heads into which this case has been divided, the designs, plans, views, feelings and acts

of individual members of the society, and under this head shall notice, so far as I think it necessary, the conduct of subordinate meetings, and of what has been called the dominant party.

And here I make some general remarks, which indeed in my judgment, furnish an answer, a decisive answer, to many of the conclusions which have been drawn or suggested from the facts which, on these points of the case, appear in evidence.

First. Our concern is with the yearly meeting in its collective capacity. Our purpose is to ascertain whether that body holds or has ceased to hold, a legal existence; whether the body which met on Arch street, and continued and closed its session there, in April, 1827, was the constitutional yearly meeting of the society? Whether the yearly meeting then assembled, performed its functions and adjourned? or whether that assemblage, at its opening, in its progress, or at its conclusion, ceased to be the ancient and legitimate yearly meeting? Whether the venerable edifice remained, or its place exhibited only a deplorable pile of ruins.

Second. As such, then are our concern and purpose; we have little to do with the causes of division and separation about which so much has been said and written in the course of this cause, or with the division and separation, except so far as they may operate on the legal existence of the assemblies of this society. A separation has, indeed, taken place. Those who formerly offered their sacrifices on a common altar, now no longer worship or commune together. Many who once went up to the ancient temple have left it, and go up to another mount. They had the right to do so. Our civil and religious liberty, whereof we have such just reason for congratulation and gratitude, left them free from all restraint, save conscience and the divine law. We are not here to approve or condemn them, nor to inquire into their motives, nor to estimate their strength, or their purity, or their consistency with the light of truth whereby all profess to be guided. I wish to judge no "man's servant. To his own master he standeth or falleth." I hope to be able to continue and close this investigation, without any inquiry into religious faith or opinions. Not that I doubt the power of this court. For while I utterly disclaim the idea that this court, or any court, or any human power, has the right

to enforce a creed, or system of doctrine or belief, on any man, or to require him to assent to any prescribed system of doctrine, or to search out his belief for the purpose of restraining or punishing it in any temporal tribunal; I do most unqualifiedly assert and maintain the power and right of this court, and of every court in New Jersey, to ascertain, by competent evidence, what are the religious principles of any man or set of men, when, as may frequently be the case, civil rights are thereon to depend, or thereby to be decided. In a greater or less degree it is done daily. Who avail themselves of it more frequently than the society of Friends, when, on the ground of religious faith, they claim and enjoy an exemption from the use of an oath in our courts of justice? How far, then, this separation may have been proper, or whether the causes of it will stand the scrutiny, which, in the great day of account, they must undergo, we are not to resolve. Its effect on this society and the ancient assembly, is the outermost bound of our inquiry.

Third. Inasmuch as our research, properly and almost exclusively relates, as I have endeavoured to show, to the yearly meeting in its collective capacity, it is of little worth to inquire into the plans, designs, or views of individuals, or even the acts, of inferior bodies, since these, however incorrect, or hostile, or indefensible, can have no great influence on our main pursuit; for if individuals were ambitious, not lowly, arrogant, not humble, domineering, not submissive, and were destitute of the mild and forbearing spirit of christianity; if a party had sprung up, resolved, as was said, "to rule or to rend;" if even monthly or quarterly meetings had violated the wholesome rules of common discipline, it by no means follows that the bonds of the society were broken, their compact dissolved, their discipline at an end, their constitution destroyed, and their existence annihilated. Such a government is a mockery, a pretence. It has not the consistency of even the mist of the morning. The plain and irresistible truth, that such a government, so wholly unadapted to the condition of mankind, could not exist, abundantly proves that such principles are unsound. The basis of all government, is the truth taught by every page of history, that turbulent passions will arise, that acts of violence will be committed; and the purpose of government is to control, to regulate, to repress, to remedy such passions and con-

duct. If otherwise, the edifice is built of such stuff as dreams are made of, and is as unsubstantial and as little to be valued as a castle in the air. If the state of Georgia should disregard the decision of the federal judiciary, or even resist the executive power of the United States, is the constitution dissolved? If designs exist in South Carolina "to rule or to rend," our government, surely, is not therefore annihilated. It may be said, these are but parts, small parts of the Union. Is it, not in like manner said, the adherents of the Arch street meeting are a minority, a small minority? Gough, in his history, makes this judicious and appropriate remark. "The independency claimed by the discontented party, is incompatible with the existence of society. Absolute independency in society being a contradiction in terms." 3 *Gough's Hist.* 24.

This view of the subject would, I think, excuse any examination in detail; yet to see these principles in their practical application, as well as farther to illustrate the matter, and to leave, if possible, nothing without notice, which is urged as bearing on the result, I shall briefly advert to some of the prominent topics of dissatisfaction and complaint.

"The most prominent cause of" the division in the society, "of a public nature, I consider to be," says one of the witnesses, (Abraham Lower, vol. 1. Evid. 354.) "the public opposition or disrespect, manifested by the members of Pine street monthly meeting, by the agency and influence of Jonathan Evans, in breaking up the men's meeting, or closing it, whilst Elias Hicks was, with the consent and approbation of that monthly meeting, engaged in the women's department in the prosecution of his religious concern." The occurrence took place "between 1819 and 1821." (*Ibid.*) Now, if a prominent member of that meeting was guilty of rudeness or impropriety, it is plain, that he should have been individually dealt with, brought to confess his error, or disowned. If the meeting, as such, acting from his example or under his influence, were guilty of censurable disrespect, "such meeting ought" to have been required "to render an account thereof." I use, here, the words of the book of discipline, the meaning of which is well understood. But it is claiming too much, to assert, that the society is thereby rent asunder, when no measures to punish the offenders were ineffectually assayed, when years have shed their healing

influence over it; or that the religious rights and privileges of all the other meetings and members, within a large district of territory have been jeopardized, and the subsequent sessions of the yearly meeting been unwarranted, and their acts usurpation and oppression.

Another complaint against individuals, and against the meeting for sufferings, is called "an insidious effort to palm a creed upon a society which never had a creed." (Abraham Lower, vol. 1. Evid. 369.) The affair is thus represented by the witness who uses the expression. I have quoted. "The minds of some of the members of that meeting appeared to be anxious that something should be done to keep the minds of the members of the society from imbibing sentiments which seemed to be growing common among its members. The suggestion was made to get up a pamphlet, to be composed of extracts from the writings of our early Friends, and from what some of us saw of the disposition of those persons, who have since denominated themselves 'Orthodox'.... we felt afraid that something was about to be got up, calculated to trammel our conscientious rights, and when the pamphlet was prepared, a small number of us expressed our dissatisfaction with the undertaking, and with the matter of the pamphlet, fearing, that in the hands of arbitrary men, a construction might be given to some of the views in that pamphlet, that would abridge the right of private judgment.... there were, I think, ten thousand of them printed.... but it was detained, not published. And when the minutes of the meeting for sufferings came to be read as usual, in the yearly meeting, to my surprise, that pamphlet appeared to be recorded on the minutes, and when it was read, the yearly meeting appeared very much dissatisfied with it. It was proposed, and generally united with, and so expressed, that it should be expunged from the minutes of the meeting for sufferings.... It was finally left, with the conclusion that it should not be published. It was considered in the light of a creed, and that by this course of leaving it on the minutes of the meeting for sufferings.... that when the minutes should be read in the yearly meeting, and that as a part of them, that it would be adopted by society, foisted upon them in that insidious way." (Abraham Lower, vol. 1. Evid. 368.) On the other side, the following representation of this affair was made. "It has been the custom of the society, whenever any of its doctrines or testimonies

are misrepresented in works that are published, to endeavour to induce the editors of those works to give the views that Friends hold in respect to the doctrines thus misrepresented. In the year 1822, there was a discussion in a public paper, printed at Wilmington, conducted under the signatures of Paul and Amicus; Paul attacking Friends, and Amicus speaking in their behalf, and in a manner too, which showed, that he was speaking for the society, clearly. After this discussion had progressed for a considerable time, Amicus avowed doctrines, as part of the christian faith, which we could not accord with; they appeared to be of a socinian character, at least. These essays being about to be reprinted in form of a book.... the meeting for sufferings, in the regular order of their proceedings did notice it, by appointing a committee.... The committee pursued the usual course.... prepared a statement of what were the views of Friends.... making extracts from various approved authors. The meeting united with the report of the committee, and made a minute on the subject. The editor did publish the minute in his paper, but declined saying any thing on the subject in his book. The meeting were under the necessity of publishing these extracts themselves, and did print an edition of it. In the yearly meeting of 1823, when the minutes of the meeting for sufferings were read, considerable objections were made to that part of the proceedings.... The excitement being considerable, the meeting adjourned until the next morning. When the meeting assembled the next morning, it was proposed that the extracts should be stricken off the minutes of the meeting for sufferings; objection was made to that, on the ground that it would be a disavowal of the doctrines held by Friends, these extracts being taken from the writings of approved Friends.".... It was "proposed to them to avoid both difficulties by simply suspending the publication, not taking it off the minutes, and not circulating the pamphlets, but leaving the subject. This proposition was finally acquiesced in; and the business so settled." (Samuel Bettie, vol. 1. Evid. 72.) How far this explanation may serve to show that the measure was in conformity with ancient custom, and called for by the exigency of the occasion; or how far it was an insidious effort to impose a creed; or how far the fear was well founded that an attempt was made to trammel conscientious rights, or to abridge the right of private judgment, I

shall not undertake to decide. It is enough to say, that if such a design existed, if such an effort was made, the design was frustrated, the effort was defeated; and the authors of it met with a just, though silent rebuke. But the attempt did not impair the solidity of the yearly meeting to which it was proposed. I cannot believe that the proposal, by a committee of congress, of an unconstitutional or oppressive law, would annihilate that body, or abrogate the constitution. The wildest and most visionary theorists would not, I believe, venture on such bold and untenable ground.

This matter, of religious faith and doctrine of a creed, has directly or indirectly filled up a large portion of the volumes of evidence before us, was the subject of many remarks in the arguments of the counsel at the bar of this court, has been the cause of much anxiety and alarm; and misunderstandings in respect to it, have, I doubt not, had great influence in bringing about the lamented rupture in this most respectable society. I fear the matter has been greatly misunderstood, if not greatly misrepresented. This society has, and from the nature of things, must have, its faith and doctrines, its distinguishing faith and doctrines. They would, unhesitatingly, repudiate the tenets of Confucius, of Bramah, or of Mohammed. They believe "in Christ and him crucified." They bear both public and private testimony of their faith. They have repeatedly declared it, and published it to the world. They have a confession of faith, and a catechism. A declaration of faith was issued on behalf of the society, in the year 1693, was approved by the morning meeting of London, and published by the yearly meeting of Philadelphia, in or about 1730. It is, I suppose, the same which is to be found in Sewell's History, (vol. 2. 472.) It purports to be "a declaration of what our christian belief and profession has been and is," and contains an exposition of belief, in respect to Jesus Christ, his suffering, death, and resurrection, and the general resurrection of the dead, and the final judgment. Sewell, (vol. 2. 483.) gives what he calls "a confession of faith," which was, by George Whitehead and others, presented to parliament; in December, 1693, and begins, thus, "Be it known to all, that we sincerely believe and confess." The yearly meeting, as early as 1701, by their direction and at their expense, circulated Barclay's Apology, and his Catechism.

and Confession of Faith, as containing the doctrines and tenets of the society of Friends. What is a creed but an exhibition of faith and doctrine? Why, then, should the tocsin now be sounded among a people, who, a well informed member tells us, have more frequently than any other religious community, exhibited to the world their principles and their faith? Were the early Friends less anxious for the cause of truth, less jealous of encroachment on their religious freedom, less willing to bear testimony against error and to suffer for their testimony, less prompt to discern insidious efforts, less fearful of attempts to trammel conscience or abridge the right of private judgment? The observations of Robert Barclay, in a treatise on church government, published under the sanction of the society, and several times printed by the yearly meeting of Philadelphia, (Thomas Evans, vol. 1. Evid. 304.) are fraught with so much good sense, practical wisdom, and genuine piety, that they cannot be too frequently pondered by all, of every name or sect, who feel an interest in the cause of religious truth and order. "Whether the church of Christ have power in any cases that are matters of conscience, to give a positive sentence and decision, which may be obligatory upon believers. I answer affirmatively, she hath; and shall prove it in divers instances, both from Scripture and reason; for, first, all principles and articles of faith which are held doctrinally, are, in respect to those that believe them, matters of conscience. . . . Now, I say, we being gathered into the belief of certain principles and doctrines, without any constraint or worldly respect, but by the mere force of truth on our understanding, and its power and influence upon our hearts, these principles and doctrines, and the practices necessarily depending upon them, are, as it were, the terms that have drawn us together, and the bond by which we became centered into one body and fellowship, and distinguished from others. Now, if any one or more, so engaged with us, should arise *to teach any other doctrine or doctrines*, contrary to these which were the ground of our being one, who can deny but the body hath power in such a case to declare, *this is not according to the truth we profess*, and therefore, we pronounce *such and such doctrines to be wrong*, with which we cannot have unity, nor yet any more spiritual fellowship with those that hold them. . . . Now, this cannot be accounted tyranny and

oppression. . . . Were such a principle to be received or believed, that in the church of Christ no man should be separated from, no man condemned or excluded the fellowship and communion of the body, for his judgment or opinions *in matters of faith*, then what blasphemies so horrid, what heresies so damnable, what doctrines of devils but might harbour itself in the church of Christ? What need then of sound doctrine, if no doctrine make unsound? . . . Where a people are gathered into the belief of the *principles and doctrines* of the gospel of Christ, if any of that people shall go from their principles, and assert things false, and *contrary to what they have already received*, such as stand and abide firm in the faith have power . . . to separate from such, and to exclude them from their spiritual fellowship and communion." (Barclay's Anarchy of the Ranters, 53, &c.) On the present occasion it is not my purpose, because for the determination of the controversy before us, I do not find or deem it necessary, to inquire whether the society of Friends can, or may, or will, according to their rules, disown a member who holds unsound or heretical doctrines, who should disavow all the essential principles of christianity, and profess to believe that Jupiter and Mars and Apollo, and the fabled deities of Olympus are the true gods, or that the "blood of bulls and of goats should take away sins," but simply to show that the society as such, have their faith, their principles, their doctrines, their peculiar faith, their distinctive principles, their characteristic doctrines, without which a man may be a heathen, a mohammedan, or even a christian, but cannot be one of the people called Quakers. Can I mistake in this, when I read such a passage as I have quoted from Barclay, a standard of the society, acknowledged, received, revered as such? What is his work just named, what is his "Apology," but an exposure of doctrine, of principle, of faith, of the doctrine, principle and faith of the Friends, avowed by them, published by them, resorted to by them as their light and guide in the hours of darkness, and doubt, and difficulty; in those trying hours, which come to them as they come to all men of religious feeling, when the light within needs oil and the flickering flame of hope to be made steady and brilliant. Can I mistake, when the book of discipline, with uncommon solicitude, requires each preparative meeting of ministers and elders no less than three times

In every year, to certify to its quarterly meeting, in answer to one of the queries, "whether ministers are sound in word and doctrine?" Soundness is a relative term, meaning freedom from error and fallacy, and necessarily requiring some standard whereby the word and the doctrine may be judged. The doctrine to be sound, must be conformable to some standard; and does not the query, then, assert that a standard exists in this church; and that thereby the doctrine of the minister, may, by his fellow man, be compared and tried? If, however, I may mistake in thus reverting to these venerated sources, let us for a moment, recur to the evidence. Abraham Lower, (vol. 1. Evid. 369.) says, in connexion with this subject, "The society believing now as they did, in the first foundation of it, that the bond of union, by which it was bound together, was and is, 'the life of righteousness.'" Is not here a direct assertion, that there is a belief, and a belief not merely of individuals, but of the society as such? And he refers for an exposition, published and expressed, to the author and the book from which I have just quoted. In this connexion, I recur farther, to the first document emanating from Green street, dated fourth month, 1827. "Doctrines held by one part of the society, and which we believe to be sound and edifying, are pronounced by the other party to be unsound and spurious." Now I may be allowed to ask, why speak of doctrines, if the society, as such, has no concern with them? How are doctrines ascertained to be unsound and spurious, or sound and edifying, if there be no standard of faith and doctrine—no creed? Why should this difference or departure from a sound belief, be made a subject of complaint? How is such a denunciation to be reconciled with the alarm at a creed, or the dreaded attempt to control conscience and abridge the right of private judgment?

The meeting for sufferings, by the rejection of certain persons, appointed by the southern quarter as representatives, are charged to have given "reason to apprehend that they were determined to control the operations of society according to their wills," and to have furnished "evidence of their having dissolved the compact, and so far as their own influence extended, and their own acts could extend, separated itself from the society," (Abraham Lower, vol. 1. Evid. 370.)

The meeting for sufferings, is a subordinate department for the business of this society, and especially to exercise care during the intervals between the sessions of the yearly meeting. If this body did improperly reject the representatives, if in this respect they violated the discipline, it is very obvious that their act, their unconstitutional act, could impart no censure whatever to the yearly meeting, much less destroy its existence. But the design, the motive, the ambitious and domineering spirit, which induced this conduct, these are, we are told, the consuming fires. The state of the case is shortly thus: The meeting for sufferings is composed of twelve Friends appointed by the yearly meeting, and also of four Friends chosen out of each of the quarterly meetings; and the book of discipline provides that "in case of the decease of any Friend or Friends, nominated either by the yearly meeting or quarterly meetings, or of their declining or neglecting their attendance for the space of twelve months, the meeting for sufferings, if it be thought expedient, may choose others in his or their stead, to serve till the time of the next yearly meeting, or till the places of those who have represented the quarterly meetings shall be supplied by new appointments." (Book of discipline, 55.) In the year 1826, the southern quarterly meeting resolved to release two of the persons, who were then sitting as members of the meeting for sufferings under their appointment; and appointed others. The meeting were of opinion that such a measure was not contemplated by the discipline; that the quarter had a right to fill, but not to create vacancies; and that the only case which constituted a vacancy and called for a new appointment, was death, resignation, or neglect of attendance; neither of which then existed. The meeting for sufferings appointed a committee to confer with the quarterly meeting. The latter adhered to their resolution. The case was forwarded to the yearly meeting of 1827 for their care, and was one of those, which as already mentioned, were postponed. (Exhib. No. 47, vol. 2. Evid. 477.) Here, then, appears to have been a difference of opinion, on the construction of a clause in the book of discipline, respecting the power of the quarterly meeting. Without undertaking to decide which is correct, there was certainly room enough for a diversity, and I can see no reason, either in the relation of the witnesses, or in an examina-

tion of the controverted clause, to doubt that the opinion entertained by the meeting for sufferings, was honest and sincere, and not feigned or fraudulent; more especially if, as alleged, it was sanctioned by a practice of seventy years, coeval with the existence of that meeting. Now an honest diversity of opinion as to constitutional powers, could not "dissolve the compact;" nor could the act of the meeting, in sending a committee to confer with the quarter, nor even their omission to yield to the determination of the quarter, until the matter could be investigated and decided by the ultimate and competent tribunal, the yearly meeting. But in whatever light we may view this matter, it is, as already observed, the act of the meeting for sufferings, not of the yearly meeting. The course pursued by the latter, and the reason of that course, have been already mentioned and considered. If, indeed, "this circumstance" had produced, as is said by one of the witnesses, (Halliday Jackson, vol. 2. Evid. 48.) "as great a sensation throughout the society, as, perhaps, any other circumstance that occurred previously to the yearly meeting of 1827," there needs be no surprise that this meeting should not be in a state to take it under consideration; and the propriety of a postponement until time should have shed its calming influence, and the consistency of this course with the avowed principles and frequent practice of the society of Friends, are very manifest.

The remarks which I have made on these cases, selected by way of example, and for the sake of illustration, render it unnecessary that I should particularly notice, or enter at large into the statement or consideration of others of the same general character. If the principles which I have endeavoured to establish, and have applied to these cases, are correct, the others can have no greater influence on the question of the continued existence of the yearly meeting.

Another point has been decidedly taken, on the part of those who maintain the dissolution and reorganization of the ancient yearly meeting, and which I have shortly, under this head, expressed by the phrase, "feelings of individuals." It is more at large explained, in the first public document issued from the meeting in Green street, thus; "The unity of this body is interrupted; a division exists among us, developing views which appear incompatible with each other, and feelings averse to a reconciliation."

Now admitting this to be true, and it may, perhaps, be rather to be lamented than denied, that such incompatible views and averse feelings existed in both parts of this body; what consequence can fairly, legally, upon any practical principles of human action, result to the existence of the meeting, and the connexion of the society? What consequence, on the pacific principles always maintained among the Friends? If time, charity, a recollection of the common sufferings of themselves and their ancestors; if prayer and supplication; if the smiles of the Great Head of the church universal, would not change and reconcile these views, reverse and soothe these feelings, then might those who thought "the period had fully come when they ought to look towards making a quiet retreat," have justly said to the others, "Let there be no strife, I pray thee, between me and thee, and between my herdsmen and thy herdsmen, for we be brethren! Separate thyself, I pray thee, from me; if thou wilt take the left hand, then I will go to the right; or if thou depart to the right hand, then I will go to the left." But without even an attempt at such a voluntary separation, I can see no safe principle, which will entitle a portion of those who entertained such views and feelings, on account of their existence and prevalence, to disfranchise the rest, to declare the ancient meeting dissolved, the society broken up into its individual elements, and then proceed to erect among themselves a new body, and declare it the society of Friends, and its meeting, not merely a new yearly meeting, but the ancient and legitimate yearly meeting, not a new yearly meeting, but the meeting resettled on its ancient foundations and principles.

If a portion of this religious community found, or believed to exist, in another portion, such feelings and views as rendered it impracticable for them any longer to fraternize, any longer peacefully, harmoniously and profitably to meet and commune and worship together, a very sufficient reason in conscience, may have been thereby afforded them to withdraw, to make "a quiet retreat;" and the principles of the government under which we have the happiness to live, would have sustained them in the measure, and allowed them to join any other religious community, or form another association, of whatever name, for religious purposes. But the existence of such feelings and views, would not deprive those who re-

mained of their ancient name, rights and privileges, if they retained their ancient faith and doctrine, maintained their wonted testimonies, and adhered to their ancient standards; nor would the act of withdrawal, even if by a majority, confer on them the form and name, the power and authority of the ancient community. In like manner, if a portion discovered in the rest, or in some of the more influential members, a determination "to rule or to rend," although hereby, in conscience, a sufficient reason to excuse or justify a withdrawal might be found, yet could not even a majority carry with them, the power and authority and rights of the whole, unless the disposition or determination had been carried out into overt acts; for, of the latter only, can men judge or be judged by their fellow men, while of the former, he alone can take cognizance, who knoweth the secrets of all hearts.

I have thus endeavoured to examine and weigh, in detail, or by its principles, every argument which I have either heard or read, to prove that the body which sat in Arch street meeting house, in April, 1827, was not, or ceased to be the Philadelphia yearly meeting of Friends. The position is not maintained. At the closing minute, that body was the ancient legitimate yearly meeting as fully as during the forenoon sitting of the first day, or as it had been at any point of time since the year 1685.

If this be true, if the body which then closed its functions for the time, in the usual manner, and by the ancient minute, was the legitimate body, it is enough for the present occasion, nor need we look at its future history, because the new body, which claims its power and place, assembled in the course of a few months, and before the recurrence of the next annual period. It may not, however, be unprofitable to state in this connexion, as appears from the evidence, that in the year 1828, and since, annually, at the wonted time and place, meetings have been held, of such as have thought proper to attend, of the acknowledged members of the ancient society, who have not been disfranchised by any act of any tribunal, claiming to represent the society of Friends, or to possess or exert any power of disownment.

If the body which thus held and closed its session, was the regular, constitutional yearly meeting, it follows, as an inevitable consequence, that the assembly which convened in October, of the same year, in Green street, could

not be, whatever name it may have assumed, the ancient legitimate yearly meeting, the common head and centre of the subordinate meetings, and of the society of Friends in New Jersey and Pennsylvania. One meeting being in life, another of the same powers, rights, and jurisdiction, could not, according to the discipline of the society, according to the simplest elements of reason, according to the immutable rules of action, which must govern and control all human assemblages, of whatever nature, and whether religious or civil, according, indeed, to the avowed doctrines of the pleadings in this cause, and the contemporaneous declarations of counsel, a second, a subsequent meeting could not, be set up within its bounds. The yearly meeting, having convened and closed in April, 1827, could not again convene, nor could any body, possessing its powers and authorities convene, until the same month of the succeeding year, 1828. The place of meeting was fixed by the voice of the yearly meeting, which alone had the authority in this respect, and alone could change it. The time was directed by the constitution or book of discipline, to which we have had so frequent occasion to refer. The time could, indeed, be altered by the yearly meeting, but by it alone. There was no adjournment made by the yearly meeting, to a shorter day than the annual period. There is no provision in the constitution for an intermediate, or as it is commonly denominated, a special meeting; nor is authority given to the clerk, to any portion of the members, or invested any where else, to call such meeting. Hence it clearly follows, that according to the constitution, the yearly meeting could not again assemble, until 1828; and no body, of whomsoever consisting, or of whomsoever composed, which may have convened in the intermediate period could, conformably to the constitutional principles, be, the Philadelphia yearly meeting.

We learn, however, from the evidence before us, that on the nineteenth, twentieth, and twenty-first days of April, during the yearly meeting, and after its close, a number of Friends met together to confer on the state of the society. They resolved to meet again, and accordingly did meet, in the sixth month of that year, and then recommended that a yearly meeting should be held, on the fifteenth day of the ensuing month of October. A meeting was held at the Green street meeting house. And

this meeting, is said by Stacy Decow, in his answer to the bill of interpleader, to be, "the true and legitimate yearly meeting of Philadelphia," and by one of the witnesses, is called "the yearly meeting reorganized," (Abraham Lower, vol. 1. Evid. 404.) We are now to examine whether it was so, and in the present inquiry I propose to lay out of view the fact, which I believe has been fully demonstrated, that the yearly meeting was actually in full vigour and capacity.

This inquiry is to be conducted under two different aspects, first, on the assumption that the constitution or discipline of the society remained in force; and secondly, on the assumption that the hedge was thrown down, the bond of union unloosed, the society broken up into its individual elements, the constitution or discipline not providing for the emergency, or having crumbled into dust.

First. The constitution is in force. The time and place of the yearly meeting are fixed. April, not October, is the one; Arch street, not Green street, is the other. Neither can be changed without the resolution and authority of the yearly meeting. No such authority was given. On the contrary, the resolve of that body was, that the next yearly meeting should assemble on the third second day of April, at Arch street, at the usual time and place, "if the Lord permit;" and these latter words did not, as is asserted in the answer of Stacy Decow, constitute "a contingent adjournment," nor contemplate "the circumstance . . . of Friends not being again permitted to assemble at that time;" but were designed to acknowledge their humble and entire dependence on the Great Master of assemblies, without whose permission they neither expected nor wished again to convene. A special meeting of the yearly meeting is an anomaly, and unprovided for. Neither the few nor the many, have power given to them to convoke such meeting. If then, the constitution was in force, the meeting in October was not the true and legitimate yearly meeting of Philadelphia.

Second. Let us now suppose the compact broken, the constitution dissolved, and the disjoined members at liberty to act from individual minds. Was the meeting entitled to the name it then assumed? There are three insurmountable obstacles. First, it was not convened as the ancient yearly meeting. Second, the members at large, the only constituent parts, or in other words, the individ-

ual elements, were not, and a portion of them only was, invited to assemble. Third, it was not composed or constituted as the ancient yearly meeting.

First. This October meeting was not called, nor did it come together as the ancient yearly meeting. The name which it thought proper then to assume, or which was then conferred upon it, cannot help this deficiency. In the call which was issued, the faintest idea is not held out that the ancient yearly meeting was to be convoked; no hint is given that the ancient meeting was to be reorganized, or to be settled on its ancient foundations and principles. On the contrary, the idea is conveyed with comprehensible distinctness, that a new yearly meeting was to be formed. The address, which bears date in June, contains, in the first place, an avowal of the design or object in view, "to regain harmony and tranquillity . . . by withdrawing ourselves, not from the society of Friends, nor from the exercise of its salutary discipline, but from religious communion with those who have introduced, and seem disposed to continue, such disorders among us." There is nothing here of remaining in the ancient yearly meeting, nor of continuing or reorganizing it. But let us proceed. "We therefore . . . have agreed to propose for your consideration, the propriety and expediency of holding," what? The ancient yearly meeting? No. "A yearly meeting for Friends in unity with us, residing within the bounds of those quarterly meetings heretofore represented in the yearly meeting held in Philadelphia." And farther, "It is recommended that the quarterly and monthly meetings which may be prepared for such a measure, should appoint *representatives* to meet in Philadelphia on the third second day in tenth month next, at ten o'clock in the morning, in company with other members favourable to our views, there to hold a yearly meeting of men and women Friends, upon the principles of the early professors of our name." In this clause are several prominent points. First, the meeting was to be composed of representatives from the monthly as well as the quarterly meetings. Now, the ancient yearly meeting had no representatives from monthly meetings; certainly, since the discipline, as adopted and published in 1806. A *continuance* of the yearly meeting could not then have been contemplated, nor a reorganization of it, nor a settling of it on its ancient principles.

Second, It was to be, not the Philadelphia yearly meeting, but "a yearly meeting of men and women Friends;" and thirdly, It was to be formed on the principles of the early professors of our name, not on the platform of the yearly meeting, as erected by the book of discipline.

Second. This meeting in October, was not so convened as to entitle it to assume the name, and to take the place of the Philadelphia yearly meeting.

If the yearly meeting was dissolved, and the society brought back to a mere collection of individuals, if the state of things were such that individual minds might now form anew or reorganize, as they are said to have originally formed, it is a very clear proposition, and not to be controverted, that all the individuals of the society ought to have been called; none should have been directly or indirectly excluded. Whatever dissensions had risen up, whatever animosities existed, the former members of the society remained such, and those who did not meet in Green street, in person or by representatives, were as much as they who did, members and individual elements. All, then, had a right to be called, all must be called, all must be afforded an opportunity to assemble, or no convocation can be lawful, the true and legitimate yearly meeting cannot be there. Now, the recommendation or invitation to assemble, was not comprehensive, but exclusive, not general, but limited. A particular class or description only were invited; all the rest were debarred and shut out. The maxim, *expressio unius. est exclusio alterius*, is adopted in the law, only because it is the dictate of common sense. For whom was the meeting? Who were to attend? "For Friends in unity with us." Not for Friends in general, not for the members of the ancient yearly meeting, but for such only as were in unity with those who made the proposal. Who were invited to send representatives? All the monthly and quarterly meetings? By no means. "The monthly and quarterly meetings *which may be prepared for such a measure.*" This language cannot be misunderstood or misconstrued; and besides the representatives, for as we have heretofore seen, all who were led by inclination or duty, came in their individual capacity to the yearly meeting, who were to meet in company with them? All the society? All other members? Not so. "Other members favourable to our views." Was then the yearly meeting convoked? Was even a general meeting of the

society of Friends called? Ingenuity cannot pervert, blindness cannot mistake, such perspicuity. If I may be permitted to use a term, because it is so common as to be well understood, and not because I mean to make any offensive application of it, the call was for the meeting of a party. I do not intend to say, a right party, or a wrong party, for the subject will, in its nature, admit of either qualification, but a party. And such a convocation, of a portion only of the society, the rest whether majority or minority, or however small in comparative numbers, being excluded, cannot be the true and legitimate yearly meeting, cannot be the ancient yearly meeting reorganized and settled again on its ancient foundations and principles.

Third. The meeting in October was not composed or constructed as the yearly meeting.

I have, incidentally, adverted to this subject, in showing the nature of the call, or who were invited to attend the meeting; but I now present it as a characteristic difference between this assemblage and the yearly meeting. The yearly meeting is composed of members of two classes, individuals, and the quarterly meetings; the latter being represented by delegates. Such is not only the case since the present book of discipline was published by the society, but was the principle of organization when this meeting was first established. Gough, the historian, says, "In the year 1669, it was found expedient and agreed upon, to hold a general meeting in London, representative of the whole body in England, and all other parts where any of the society were settled, which, having been thenceforth held annually, is denominated the yearly meeting in London. This meeting is constituted of representatives deputed from each quarterly meeting in England, from the half yearly meeting in Ireland, and sometimes from other parts, yet without restraining any member in unity with the society from attending." (2 Gough's History, 163.) But the meeting in Green street was composed of three classes, individuals, quarterly meetings, and monthly meetings; some of the latter, as bodies, Mount Holly, Chesterfield and Radnor, being represented by their delegates. (Exhib. 9.) It is no answer, that members of this society are entitled to sit in their individual capacity, and therefore, whether there, as individuals or delegates, can make no difference. This result does not follow. The representatives alone, it will be remembered,

perform the important service of nominating a clerk to the meeting. And hence, the clerk who acted for, and was appointed by this meeting was nominated, at the least in part, by the representatives of monthly meetings, who were irregularly there. And the incongruity of this procedure farther appears from this, that the individual members first appointed, in their monthly meetings, the representatives of those meetings, and then themselves attended as individual members. It is manifest, therefore, the October meeting was not composed as a yearly meeting should, and could only, have been.

In the course of this investigation, it has repeatedly occurred to me, and every time with increasing force, that the grounds of division, if no difference of religious faith existed, were of an inferior and evanescent nature. It seems to me, though, perhaps, I am unable, not being a member of the society, properly to appreciate the matter, that patience, forbearance, brotherly kindness and charity, the meek and mild spirit which has been believed to characterize and adorn the genuine Friend, would, under the smiles and blessing of Providence, have wrought out a perfect reconciliation, have brought again these discordant minds to the wonted harmony, and the unity of spirit would have again prevailed. If, indeed, a difference of faith and doctrine had grown up and become strong, if either portion had fallen off from the ancient principles of their church, and I use the term, here, as did Fox and Barclay and Penn, the breach is not the subject of surprise, and it must, with no less truth than regret, be said, "between us and you there is a great gulf fixed." In the pleadings of this cause, in the extended volumes of testimony, and in the laborious arguments of the counsel, I do not remember any charge that the members of the society, who remain connected with the Arch street meeting, have departed from the doctrines and principles of Friends, as stated by their founder and his early followers; and I rejoice that I have not been constrained to inquire into the charge of departure, so freely and frequently urged against the members of the Green street meeting. In any remarks I have made, I am not to be understood as asserting or countenancing such a charge. Nor do I mean to say, they either had or had not grounds or reasons sufficient to induce a separation. With these, I do not profess, for this court, in the present cause, to inter-

tere. It is with the legal consequences of their acts, we are to concern ourselves. A separation of a portion does not necessarily destroy or impair, nor, as it respects legal existence, even weaken the original institution. This doctrine was distinctly asserted by the Supreme Court of this state, in the case of Den against Bolton and others, which arose on the division in the reformed Dutch Church of the United States.

Upon the whole, I am brought, by the most careful, faithful, and minute investigation of which I am capable, to the result, that the Arch street meeting was, and the Green street meeting was not, the Philadelphia yearly meeting of the society of Friends.

We are now to look for the consequences on the cause before the court. We have seen that every preparative meeting within the states of Pennsylvania and New Jersey, which is, through and by its connecting links, connected with, and subordinate to, the yearly meeting of Philadelphia, is a preparative meeting of the people called Quakers; and any preparative meeting or assemblage of persons calling themselves a preparative meeting, not thus connected and subordinate, is not a preparative meeting of that people, within the meaning of their constitution and discipline, and within the meaning of the subscription to the school in the present case, or in other words, the instrument whereby the trust fund was created. We have farther seen, that the preparative meeting having authority to appoint the treasurer of the school fund, is the preparative meeting of Chesterfield, connected with, and subordinate to, the yearly meeting of Friends of Philadelphia. We have seen that the preparative meeting whereby Stacy Decow was appointed treasurer, was not, at the time of that appointment, connected with, and subordinate to, the Arch street meeting, but had previously disunited itself therefrom, and connected itself with the Green street meeting; and that, therefore, it was not the Chesterfield preparative meeting of Friends, at Crosswicks, meant and mentioned in the establishment of the school fund, and had not competent authority to discharge Joseph Hendrickson and appoint a successor.

There is, then, no successor to the person named as treasurer in the bond and mortgage, and he has, consequently, the legal right to recover the money.

I do, therefore, respectfully recommend to His Excel-

lency the Chancellor, to decree upon this bill of interpleader, that the principal and interest mentioned in the said bond, and intended to be secured by the said mortgage, of right belong, and are payable to the said Joseph Hendrickson, and that he be permitted to proceed on his original bill of complaint, or otherwise, agreeably to the rules and practice of the court of Chancery.

CHARLES EWING.

Opinion of ASSOCIATE JUSTICE DRAKE.

The present controversy has grown out of the prosecution of a certain bond and mortgage, bearing date the second day of the fourth month (April), A. D. 1821, executed by Thomas L. Shotwell to Joseph Hendrickson, Treasurer of the School Fund of Crosswicks' Meeting, to secure the payment of two thousand dollars, with interest, at six per cent., to the said Joseph Hendrickson, Treasurer as aforesaid, or his successor, or to his certain attorney, executor, administrator, or assigns. Upon this bond, the interest had been duly paid until the second day of April, A. D. 1827. The interest from that date, together with the principal, composes the sum now in dispute.

It is admitted, that the money, for which these securities were given, is part of a fund, the principal part of which was raised about the year 1792, by the voluntary subscriptions of a considerable number of the members of the preparative meeting of the people called Quakers, at Crosswicks, in the township of Chesterfield, county of Burlington and state of New Jersey; for the purpose of creating an interest, or annuity, "to be applied to the education of such children, as now do, or hereafter shall, belong to the same preparative meeting, whose parents are not, or shall not be, of ability to pay for their education." And this fund was to be "under the direction of the trustees of the said school," (the school then established at Crosswicks) "now, or hereafter, to be chosen by the said preparative meeting."

It is further admitted, that previous to the year 1827, there was but one preparative meeting, of the people called Quakers, at Crosswicks; although it was some-

times designated as the Chesterfield preparative meeting, at Crosswicks; and at other times, as [the preparative meeting of Friends, at Crosswicks. It was an association, or meeting, of the religious society of Friends; and it had the power to appoint the trustees of the school, the treasurer, and other officers of the association.

Joseph Hendrickson, one of the above named parties, was appointed treasurer of this meeting in 1816, and was continued in that office, as all parties agree, until the summer or autumn of 1827, when disputes arose in that meeting, and others with which it stood connected, which resulted in the separation of one part of its members from the other part. One party, or division of that body, have continued the said Joseph Hendrickson in the office of treasurer. The other party, in the month of January, 1828, appointed Stacy Decow, another of the above named parties, to the same office, and have continued him in that office until the present time.

Both Hendrickson and Decow, claim to be the treasurer of the Chesterfield preparative meeting, and, in that capacity, to have the custody of this fund. As both *have been appointed*, although by different bodies, or different parts of the same body, the title to the office must depend upon the appointing power; that is, the preparative meeting. And inasmuch as two several bodies pretend, each, to be the true preparative meeting, and one only is contemplated as the trustee of this fund, it becomes necessary to inquire which is the true preparative meeting.

It appears by the testimony, that on the twenty-seventh day of December, A. D. 1827, the Chesterfield preparative meeting of Friends was divided, by the minority of the members, assembled at that time, withdrawing to another house, leaving the majority, with the clerk, at the usual place of meeting. They continued their business there; and the minority organized anew, or held another meeting, having appointed a new clerk to act for them.

If this preparative meeting were an *independent body*, acting without the influence of any conventional principle operating upon this point, the act of the minority on this occasion would not affect the powers of the majority who remained in session; however it might expose itself, and the members composing it, to disabilities. But the right to make appointments, and to exercise the other functions

of the preparative meeting, would still continue with the larger party.*

But the preparative meeting is not an independent body, but a component part of *the religious society of Friends*. Hence, it is necessary to examine its connexion with the society of *Friends*, and the history of that society, so far as it influences the separation in this preparative meeting, in order to determine the question, which of these bodies is the true preparative meeting; and is, of course, entitled to appoint a treasurer, and to manage this fund.

The society of *Friends*, as it existed at the time when this school fund was created, and thence down to the year 1827, was an association of christians, bound together by a distinct government, peculiar testimonies, and, as one party contends, by certain religious doctrines, deemed by them fundamental. For their government, the *Friends*, residing in New Jersey and Pennsylvania, as early as the year 1689, established a general meeting, called a yearly meeting, in which the numerous inferior meetings have been represented, and which all the members of the society have had a right to attend, (vol. 1. Evid. 333.) That yearly meeting, soon after its institution, adopted and published certain articles of government, called "Rules of Discipline of the Yearly Meeting of *Friends*, held in Philadelphia." This is acknowledged by all the parties to this suit, as their system of government; and by that, so far as its provisions extend, all profess to be willing to be tried. In this publication, we find that their meetings for discipline are declared to be; (Intro. Discip. 3.) "First, preparative meetings; which commonly consist of members of a meeting for worship; second, monthly meetings, each of which commonly consists of several preparative meetings; third, quarterly meetings, each of which consists of several monthly meetings; and, fourth, the yearly meeting, which comprises the whole."

And the connexion and subordination of these meetings, are declared to be thus; (Discip. 31.) "Preparative meetings are accountable to the monthly; monthly, to the quarterly; and the quarterly, to the yearly meeting. So that, if the yearly meeting be at any time dissatisfied with the proceedings of any inferior meeting; or the quarterly meeting with the proceedings of either of its monthly meetings;

* 7 Serg. and Rawle, 460; 5 Binney, 485; 5 Johnson, 39; 1 Bos. and Pul. 229; 2 Dessausseure, 583; 16 Mass. 418.

or a monthly meeting with the proceedings of either of its preparative meetings; such meeting or meetings, ought, with readiness and meekness, to render an account thereof, when required."

This preparative meeting at Chesterfield, was established at an early period. It was, ever since its origin, connected with, and, in the sense of the book of discipline, subordinate to the Chesterfield monthly meeting; which was subordinate to the Burlington quarterly meeting; and that, to the Philadelphia yearly meeting.

Such were the connexions sustained by this preparative meeting, at the commencement of the year 1827. I said, that we must review the history of the whole body, so far as it operated upon the division of the Chesterfield meeting, at the close of that year. During the same year, a division took place in the Philadelphia yearly meeting, which was followed up by divisions in all the subordinate meetings, or at least all, with which this preparative meeting was connected in its subordination. The division so resulted, that as early as tenth month, 1827, there were two yearly meetings in existence, (vol. 1. Evid. 622; vol. Evid. 457.) each claiming to be the true yearly meeting of the society of Friends; one assembling in Arch street, and the other in Green street, Philadelphia. Which of these two meetings was the head to which the inferior meetings should account, &c. according to the constitution of the society? They could not both be. For in this case, it would not only be hard, but impossible, for the inferior meetings to serve two masters. But which should it be? Upon this point, the members of the inferior meetings could not agree. And hence, a corresponding division took place in the Burlington quarterly meeting, in eleventh month, 1827, (vol. 2. Evid. 207, 8.) which resulted in two distinct quarterly meetings; one assembling at the city of Burlington, and the other at Chesterfield. And a division also took place, in ninth or tenth month, 1827, in Chesterfield monthly meeting. A dispute arising, respecting the propriety of granting a certificate of membership to an individual, to be presented to Green street monthly meeting; which dispute was founded on the question, whether that meeting still retained its connexion with the Arch street yearly meeting, or had joined that of Green street; the clerk, David Clark, not acting in reference to this matter, with the promptness desired by the party in favour of making

the certificate, they considered him as refusing, or at least, as neglecting to serve the meeting, and at once called another person, Jediah Middleton, to the chair, to serve them as clerk. (Vol. 1. Evid. 337; vol. 2. Ibid. 284.) After which, the two parties conducted their business separately; the minority and old clerk, adhering to the Burlington quarterly meeting, in connexion with the Arch street yearly meeting, and the other party sending representatives to the Green street yearly meeting, (vol. 2. Evid. 296, 7. 323.)

It was after this complete division of the Chesterfield monthly meeting, that the transaction took place in the preparative meeting before noticed. These meetings were composed, in some measure, of the same persons. The clerk, James Brown, and many other persons there, had previously manifested their partiality to one or the other; of the great parties which had grown up in the society, and to their respective yearly meetings. In making out answers to the queries, which were, by the monthly meeting, in eleventh month, 1827, addressed to the preparative meeting, according to the book of discipline, page eighty-nine, the clerk of the preparative meeting had made return to Jediah Middleton, the clerk of that monthly meeting, connected with the Chesterfield quarter, and Green street yearly meeting; (vol. 2. Evid. 323.) thus acknowledging the meeting of which he was clerk, to be a branch of that yearly meeting. He had also denied the authority of the monthly meeting, of which David Clark was clerk. (vol. 1. Evid. 325; vol. 2. Ibid. 323.) In eleventh month, 1827, the Burlington quarter, connected with the Arch street yearly meeting, appointed a committee to visit its subordinate meetings. (Vol. 1. Evid. 325, 6.) On the twenty-seventh of twelfth month (December) that committee presented themselves before the Chesterfield preparative meeting then assembled. A committee also presented itself from the Burlington quarter, connected with the Green street yearly meeting. An inquiry was made of the clerk, or meeting, in what connexion this preparative meeting was then acting. No direct reply was given. It being manifest that the harmony of the meeting was broken, and all parties knowing the predilections of themselves and others to be so fixed, that it was useless to spend time in debate, the minority, wishing to sanction no proceeding which would change their connexion or allegiance,

withdrew; protesting against any forfeiture of their rights thereby. Since which, the two parties once composing that preparative meeting, have each held its own meeting, in subordination to their respective monthly, quarterly, and yearly meetings, as before stated.

Much investigation was made into the precise conduct of the respective parties, in effecting these divisions; but I do not regard the particular acts, or formalities, observed by these subordinate meetings, as of much consequence, seeing there is a complete separation of the society into two distinct bodies, acting under separate governments; although each still professes to adhere to the ancient discipline and worship. Our inquiry now must be, whether each of these bodies is to be considered as the society of Friends, contemplated in this trust, or only one of them: And if but one, which is that one? And which yearly meeting represents it? For if there be but one society, and one yearly meeting which answers to the trust, the inferior meetings must follow the fate of those to which they stand connected. Every Friend is a member of his yearly meeting. It is the yearly meeting which overlooks, controls, and exerts a care over all that are in connexion with it; which hears their appeals in the last resort; which preserves their uniformity in discipline, and in the maintenance of their peculiar testimonies; in a word, which identifies them as a body of *Friends*. And in order to determine which is the true preparative meeting, at Crosswicks, we must ascertain which is the true yearly meeting of *Friends*, held in Philadelphia.

The yearly meeting was established in Burlington, in the year 1681. (vol. 1. Proud's Hist. Penn. 160, 61.) It was held alternately, at Burlington and Philadelphia, from 1684, to 1761; after which it was removed entirely to Philadelphia, and was held there annually and in great harmony, until within the last ten or twelve years; within which time, jealousies have arisen among the members, which increased, until the meeting held in fourth month, 1827, which was the last held by the united body. The dissensions, previous to, and at that meeting, came to such a height, that one party withdrew, and took measures for the formation of a new yearly meeting, as the other party insist, or as they say, for the reorganization and purification of the old one. It will be necessary to look a little into particulars, to discover the character of this transac-

tion, and what should be its effect upon the present case. And I would here observe, that I use the word party, or parties, "Orthodox" and "Hicksite," in this opinion, merely to designate individuals, or bodies of men, acting together, and not with any reference to the feelings, motives, or principles, upon which they may have acted.

Questions of importance were expected to arise at the yearly meeting of 1827, upon which disagreement was anticipated. The respective parties made such preparations for the approaching business of that meeting as they deemed proper. The clerk, being the officer who collects the sense of the meeting on the questions submitted to it, and declares its decisions, was justly considered as holding an important station, which neither was willing to have filled, by a person unfriendly to its views. The nomination of a clerk to the yearly meeting, was the appropriate business of the representatives from the quarterly meetings. (vol. 1. Evid. 68, 217.) In the meeting held by them for that purpose, Samuel Bettle and John Comly were nominated. Each party advocated the pretensions of its favourite candidate, but neither candidate was agreed upon. Upon its being reported to the yearly meeting, that the representatives were unable to agree, some person suggested, that it was the practice of the society for the old clerk to act until a new one was appointed. (vol. 1. Evid. 68, 218.) In this, there was, at least, a partial acquiescence of the opponents of the old clerk. (vol. 1. Evid. 69, 218. vol. 2. *Ib.* 21, 267, 392.) He took his seat at the table, and John Comly, the rival candidate, took his, as assistant clerk. The next morning, the latter expressed a repugnance to serve the meeting, made up, as he stated, "of two irreconcilable parties;" but for some reason or other, he again acquiesced, and acted as assistant clerk the residue of the meeting. One other subject of dispute occurred towards the close of that meeting. It was respecting the appointment of a committee to visit the inferior meetings. To this, there was considerable opposition, but the clerk finally recorded a minute in favour of the appointment. After which, the meeting adjourned, "to meet at the same time and place the next year." (vol. 1. Evid. 70.)

On the nineteenth, twentieth, and twenty-first of April, 1827, and during the sitting of the yearly meeting, another meeting was held in Green street, at which an address to the society of Friends was agreed upon; which was sub-

scribed, by direction and in behalf of said meeting, by John Comly, and others; in which address, after alluding to the divided state of the society in *doctrine* and in feeling, and to measures of the yearly meeting deemed oppressive, they state their conviction, "that the period has fully come, in which we ought to look towards making a quiet retreat from this scene of confusion." (vol. 2. Evid. 454.) They adjourned, to meet again in the same place on the fourth day of sixth month (June), 1827. At which second meeting, they agreed on and published a second address, in which, after adverting to disorders and divisions in the society, and transactions of the late yearly meeting, against the sense, as they considered, of the larger part of that body, they add, "Friends have viewed this state of things among us, with deep concern and exercise, patiently waiting in the hope, that time and reflection would convince our brethren of the impropriety of such a course, and that being favoured to see the evil consequences of such conduct, they might retrace their steps. But hitherto, we have waited in vain. Time and opportunity for reflection have been amply afforded, but have not produced the desirable results. On the contrary, the spirit of discord and confusion have gained strength, and to us there appears now, to be no way to regain the harmony and tranquillity of the body, but by withdrawing ourselves, not from the society of Friends, nor from the exercise of its salutary discipline, but from religious communion with those who have introduced, and seemed disposed to continue, such disorders among us." The address concludes, by proposing for consideration, "the propriety and expediency of holding *a yearly meeting of Friends in unity with us*, residing within the limits of those quarterly meetings, heretofore represented in the yearly meeting held in Philadelphia, on the third second day in tenth month, (then) next." (vol. 2. Evid. 455, 456.) At which time, a yearly meeting was accordingly held, in Green street, Philadelphia; which has been continued, at the same place, from year to year; and which is the same yearly meeting, to which the Chesterfield monthly meeting, of which Jediah Middleton is clerk, sent representatives, and to which, that meeting, as well as the preparative meeting of which James Brown is clerk, gave in their adhesion. (vol. 1. Evid. 50.)

Which of these yearly meetings represents the society

of Friends contemplated in this trust? A first view strongly inclines us to answer, it is that held in Arch street. That was regularly adjourned to meet at the same time and place next year, and was then held accordingly, and has been regularly continued until the present time. The other meeting was held, first, in tenth month, 1827, by those who *retreated*, or withdrew from the disorders of the other, at a new time, and a new place. One is the *old* meeting, in form at least, and the other the *new*. But some circumstances attending this separation, involve the case in some degree of doubt. Those who formed the Green street meeting, claim to be the *majority*. They complain of various abuses existing in the society, for the preceding five years; that “measures of a party character were introduced” into some of their meetings for discipline, and that “the established order of society was infringed, by carrying those measures into execution *against the judgment, and contrary to the voice, of a larger part of the Friends present.*” “At length, the infection taking a wider range, appeared in our yearly meeting, where its deplorable effects were equally conspicuous. Means were recently taken therein to *overrule a greater part of the representatives, and a clerk was imposed upon the meeting without their concurrence or consent.*” And a committee was there appointed to visit the quarterly and monthly meetings without the unity of the meeting, and *contrary to the solid sense and judgment of much the larger number of members in attendance.*” (vol. 2. Evid. 456.)

In connexion with these complaints, we must take into consideration some peculiarities in the mode of conducting the religious meetings of Friends. It is insisted by the Arch street party, that the members of a meeting for discipline, are not entitled to equal weight in their decisions; so that the clerk, whose business it is to ascertain and record the sense of the meeting, should not count the number of persons present, and decide with the majority of voices, but should pay more attention to elderly, pious, and experienced men, than to those of an opposite character. (vol. 1. Evid. 64, 184, 333.) On the other side, it is insisted, that all have an equal voice, and that it is the duty of the clerk to record the opinion of the majority, in numbers; or at least, that he should not record a minute against the sense of the majority. (vol. 1. Evid. 43, vol. 2. *Ib.* 244.) Another peculiarity, is this, insisted on by the Arch street

party, and apparently conformable to usage, that until the appointment of a new clerk, the old one is to act. It may be easily perceived, that the effect of these principles combined, may be to place a meeting under the control of a minority, however small, or even of the clerk himself; and that the majority have no *ordinary* means of redress, for they never can appoint a new clerk, and never can carry any measure, however just and important, if unreasonably opposed. And *if it be true*, that through the operation of these principles, the majority, in the yearly meeting of fourth month, 1827, was deprived of its rights, it would incline me very much, to endeavour to distinguish this case from that of an ordinary secession from the government of a religious society.

The complaint, that the majority was overruled, relates, I presume, more particularly to the meeting of representatives from the various quarters, whose business it was to nominate a clerk. But the proceedings there, may have had, and were evidently, by all parties, expected to have, an important bearing on the proceedings of the yearly meeting. The facts are somewhat variously stated by the different witnesses. But, in the view I shall take of this question, I do not think it necessary to make a minute inquiry into the facts, or to decide those which are controverted.

It appears distinctly, that no count, or other certain means of ascertaining the majority was resorted to. The Green street party, however, claim the benefit of a presumption that they were the majority, arising from the fact that they insisted that the majority ought to govern, and endeavoured to take measures to ascertain it. (Vol. 1. Evid. 372, 3.) This was resisted by the other party, either from conscious inferiority of numbers, or from a conscientious desire, not to violate the ancient usage of the society, as to the mode of ascertaining the solid sense of a meeting.

As to the true mode of ascertaining the sense of a meeting, all agree that it is the duty of the clerk to collect it, and it has been the uniform practice in the society, for him to do so, without resorting to a formal count, or division of parties. (Vol. 1. Evid. 64. 330. 458. vol. 2. Ib. 169. 250.) This society commenced in persecution, and has, heretofore, been distinguished for its harmony. Believing in the operation of the spirit of truth on their minds, not only in

worship, but in business, if properly sought for, it has been their practice solemnly to seek the guidance of the light within, and seldom, or never, to attempt influence, through ingenious argument, or noisy declamation. Hence, few have attempted to speak on questions. And these would naturally be the experienced and aged. A few voices from such quarters, unopposed, has always been sufficient to guide the clerk. If a contrariety of views appeared, it has not been the practice to continue the debate a long time, but if one party did not soon yield, to postpone the subject for further consideration. Hence, it has doubtless been usual for the clerks to look to leading men, principally, in gathering the sense of the meeting. And this practice being ancient and uniform, and withal countenanced by some of their most respected writers, and connected with their religious faith, strengthens one party in its opinion, not only that it is right for the clerk to do so, but that he may carry it so far, as to record a minute in opposition to the sense of the majority in numbers. (Vol. 1. Evid. 35. 64. 184. 333.) The other party insist, on the contrary, that the government in a yearly meeting, is strictly democratic; that all have equal rights, and an equal voice, (vol. 1. Evid. 43. vol. 2. Ib. 244.) and that however much the young and inexperienced may, in times past, have yielded to the wise and aged, through courtesy, or from other causes, yet, upon a question of strict right, they are all equal. This usage, as it has existed, has no doubt, been salutary in its influence, and it is highly expedient to preserve it. Indeed, it appears to be of almost vital importance to a religious society like this; into which members are admitted without any public declaration of their faith, and even as a birthright. And yet it is difficult to apply it, and act upon it, under such circumstances as resulted in the present division. Here were two great parties, dividing, not only the numbers, but the talents, experience, and piety of this society, separated on important questions, and each tenacious of its opinions. How shall *their* controversies be decided? It is a general principle relating to all associations of men, that all the members of a meeting, who have a right to a voice at all, have a right to an *equal* voice, unless there be something in the terms of the association to vary those rights. It is conceded that all the members of this society, have the right to attend the yearly meeting; and that the clerk *may*

notice the opinions of all. (Vol. 1. Evid. 85. 333.) How, then, is he to distinguish between them? The *usage* to accord superior weight to superior piety and experience, has, indeed, been uniform, yet it seems to want that degree of *certainly* in its application, which an *imperative rule of government* requires. Who is to judge which members have the most wisdom, or the greatest share of the spirit of truth? Each individual may concede it to another, so as to yield his own opinion to him, if he will. But who shall judge of it for a whole assembly? Who shall allot among a great many individuals, their comparative weight? If any body, it must be the clerk. The result is, that the government if not a democracy, very much resembles a monarchy. Neither party would be willing to call it the latter, unless by supposing the Great Head of the Church to preside, and rule therein. And this is, no doubt, the theoretic principle on this point. But who is to declare his decision? We come back again to the clerk. Will he always declare them truly? To err, is human. He may be directed by light from above, or he may follow his own will. And this contest, shows that neither party had any confidence in the infallibility of the clerk, under the unusual and trying circumstances which existed. The persons nominated by the two parties, were respectable men, of great worth and experience. They had both, for a long time, served the society very satisfactorily, in the most responsible stations,—those of clerk, and assistant clerk. But both had, or were suspected to have, partialities, or wishes of their own, to be gratified by the decisions of the yearly meeting. And the consequence was, that they were both objects of the greatest distrust. The “Orthodox” did not believe that John Comly could serve the meeting faithfully, and the “Hicksites” were equally dubious of the infallibility of Samuel Bettle.

This feature in the government of this society, whatever may be its precise limits, is intimately connected with their religious principles and doctrines. (vol. 1. Evid. 64.) They believe that the Head of the Church, when properly invoked, will shed his influence upon their meetings, and be “a spirit of judgment, to those who sit in judgment.” Hence, the clerk is suffered to gather *the feeling and sense* of a meeting, from those who have long manifested a spiritual walk and conversation, aided by the agency of the spirit of truth, in his own mind. But, it is at least *possible*,

that a meeting should be unfitted, in a measure, for this intercourse with the spirit; and that the clerk may be influenced by earthly passions, and have a will of his own to subserve, as well as that of the Great Head of the Church. Should such a case arise, it must be perceived that the beauty of this theory is marred, and the government becomes, *not what it was intended to be*. May it not be said, that in such case, the *condition* on which the power of the clerk and the minority is founded, is broken? But if it be, who is to declare whether such a case has, or has not, arisen? Or, what is to be the effect of an abuse of this power? Or, how is it to be relieved against? I find myself met by these questions, and others, connected with this important and delicate subject. And supposing that the decision of this cause does not require an investigation of them, I shall not attempt it. Hence, I wish not to be understood as intimating any opinion, as to the complaints of the "Hicksite" party; whether there were really any good grounds for them, or not; or, whether, if there were, it would justify the course they took, or save them from the legal consequences of a secession. I would only observe, further, on this branch of the subject, that were this *a mere naked trust*, to be performed *immediately*, by the yearly meeting, I think I should have no hesitation to award it to the Arch street meeting; that being, in point of form, at least, the same meeting which was in existence at the time the trust was created. But the Chesterfield preparative meeting, with respect to this fund, may fairly be considered, not merely as a trustee, but as having a beneficiary interest, inasmuch as the fund is to be expended in the education of the children of such of its members as are poor. It is a subordinate meeting, the pretensions of which are to be settled, by its acknowledging one or the other of these yearly meetings as its head. There was some difficulty in selecting which it should acknowledge; and if the majority have mistaken the truth, and connected themselves with the wrong head, (supposing this to be a mere dispute as to government, or discipline) I should feel very reluctant to conclude that they could have no further right or interest in the fund. But as I before intimated, I mean not to form, or express an opinion on this subject; for, in surveying the pleadings and testimony in this cause, the conviction urges itself strongly upon my mind, that there is another great distinction between these

parties, which may be resorted to, to ascertain which is the true society of Friends, so far as the purposes of this case require the decision of that question. I mean the difference in *doctrine*.

Hendrickson, in his answer to the bill of interpleader, alledges that "the society of Friends, as a christian sect, hold doctrines in reference to christianity, which, like those of other sects, are in some measure, common to all christians, and in other respects, peculiar to themselves." And that "the following religious doctrines have always been held and maintained by them." (Vol. 1. Evid. 30.)

"In the first place, although the society of Friends have seldom made use of the word trinity, yet they believe in the existence of the Father, Son, or Word, and the Holy Spirit. That the Son was God, and became flesh,—that there is one God and Father, of whom are all things—that there is one Lord Jesus Christ, by whom all things were made, who was glorified with the Father before the world began, who is God over all, blessed forever—that there is one Holy Spirit, the promise of the Father and the Son, the leader, and sanctifier, and comforter of his people, and that these three are one, the Father, the Word, and the Spirit. That the principal difference between the people called Quakers, and other protestant trinitarian sects, in regard to the doctrine of the trinity, is, the latter attach the idea of individual personage to the three, as what they consider a fair logical inference from the doctrines expressly laid down in the Holy Scriptures. The people called Quakers, on the other hand, consider it a mystery beyond finite, human conception; take up the doctrine as expressly laid down in the Scripture, and have not considered themselves warranted in making deductions, however specious.

"In the second place, the people called Quakers, have always believed in the doctrine of the atonement, that the divine and human nature of Jesus Christ were united; that thus united, he suffered, and that through his sufferings, death, and resurrection, he atoned for the sins of men. That the Son of God, in the fullness of time took flesh; became perfect man, according to the flesh, descended and came of the seed of Abraham and David; that being with God from all eternity, being himself God, and also in time partaking of the nature of man, through him is the goodness and love of God conveyed to mankind,

and that by him again man receiveth and partaketh of these mercies; that Christ took upon him the seed of Abraham, and his holy body and blood was an offering and a sacrifice for the sins of the whole world.

“In the third place, the people called Quakers, believe that the Scriptures are given by inspiration, and when rightly interpreted are unerring guides; and to use the language adopted by them, they are able to make wise unto salvation, through faith which is in Jesus Christ. They believe that the spirit still operates upon the souls of men, and when it does really and truly so operate, it furnishes the primary rule of faith. That the Scriptures proceeding from it, must be secondary in reference to this primary source, whence they proceed; but inasmuch as the dictates of the spirit are always true and uniform, all ideas and views which any person may entertain repugnant to the doctrines of the Scriptures, which are unerring, must proceed from false lights. That such are the doctrines entertained and adopted by the ancient society of Friends, and that the same doctrines are still entertained by the ‘Orthodox’ party aforesaid, to which party this defendant belongs. That these doctrines are, with the said religious society, fundamental; and any individual entertaining sentiments and opinions contrary to all, or any of the above mentioned doctrines, is held not to be in the same faith with the society of Friends, or the people called Quakers, and is treated accordingly.” And he further alleges, that previous to the separation, the society became divided into two parties, one of which is called the “Orthodox,” and the other, the “Hicksite,” and that “they differ essentially from each other, in religious doctrines;” and especially with respect to the doctrines above stated. That the ‘Orthodox’ party hold to them, but that the ‘Hicksite’ party do not adopt and believe in them, but entertain opinions entirely and absolutely repugnant and contrary thereto.”

Decow, in his answer alleges, that “the society of Friends acknowledge no head but Christ, and no principle of authority or government in the church but the love and power of God operating upon the heart, and thence influencing the judgment, and producing a unity of feeling, brotherly sympathy and condescension to each other. The great fundamental principle of the society; the divine light and power operating on the soul; being acknowledged by

all its members as the effective bond of union; the right of each individual to judge of the true meaning of Scripture testimony, relating to the doctrines of christianity, according to the best evidence in his own mind, uncontrolled by the arbitrary dictation of his equally fallible fellow man, hath been as well tacitly as explicitly, acknowledged by the society." (vol. 1. Evid. 43, 45, 51.) And that the rules and regulations of the system of discipline, adopted by the society, "relate partly to the preservation of a decent and comely order in its internal polity; partly to the observance of the principles of morality and justice, by all belonging to it; and partly to the maintenance of its peculiar testimonies."

He further alleges, that "the Chesterfield preparative meeting of Friends, at Crosswicks, to which he belongs, is the same Chesterfield preparative meeting of Friends, at Crosswicks, under whose care the said school fund was placed by the contributors thereto, and are identified with them in due and regular succession, and are a part of the ancient society of Friends. That they believe in the christian religion, as contained in the New Testament, and as professed by ancient Friends, and adhere to the religious institutions and government of the society of Friends; and bear the same cardinal testimonies to the whole world, as are held most important and characteristic in the said society; among which, are a testimony against war, a hireling ministry, against taking oaths, against going to law with brethren, and a concern to observe the golden rule, do unto all men as we would they should do unto us."

It is perceived, that each party claims for the meeting which appointed him, an adherence to the ancient faith of Friends; although they differ in this, that one points out certain doctrines, which he considers as parts of that faith, and that they are essential parts; while the other, without *directly* denying these to be the doctrines of Friends, or that his party in the society hold doctrines repugnant thereto, contents himself with alleging that "they believe in the christian religion, as contained in the New Testament, and as professed by ancient Friends:" and their adherence to their peculiar testimonies, some of which are specified; and distinctly advances "the right of each individual to judge of the true meaning of Scripture testimony, relating to the *doctrines* of christianity, according to the best evidence in his own mind." And by enumerating

other objects of discipline, he would give us to understand that this is a right, the exercise of which is beyond the control of the discipline of the society.

There is nothing characteristic in "a belief in the christian religion, as contained in the New Testament." All sects of christians, however widely separated, unite in professing this. But if I can understand the liberty claimed in this answer for the members of the society, it is, that they may interpret the Scriptures, in reference to the doctrines of the trinity, and of the divinity and atonement of Jesus Christ, as the light within them shall direct.

But although Decow, in his answer, has, in some measure, declared the faith of the party to which he belongs, yet he denies that this, or any other court has a right to institute an inquest into the consciences or faith of members of religious associations. But can this denial be well founded? May this fund be divided, and subdivided, as often as this body shall separate? And parts of it, from time to time, be diverted from its declared purpose, and appropriated to the education of the children of persons connected with other religious persuasions, or of no religion at all? And yet that no court can control it? Surely, this cannot be. This trust can be exercised only by a meeting of the *religious society of Friends*. The fund can be *used* only in the education of the children belonging to a meeting of that society. And when, as on this occasion, two distinct bodies, which have separated on points of discipline, or doctrine, or both, come before the court, and each claim the *guardianship* and *use* of this fund, as belonging to the society of Friends; this court may, surely, inquire into the badges of distinction, by which the society of Friends are known; and if they are characterized by established doctrines, we may inquire what those are, and whether they belong to one, or both of these parties. This power is distinctly laid down, in a recent case before the House of Lords, in which, Lord Chancellor Eldon says, "It is true, the court cannot take notice of religious opinions, with a view to decide whether they are right or wrong, but it may notice them as facts, pointing out the ownership of property.*

In searching for the doctrines of this society, it is, in my opinion, not necessary to inquire whether there were any

* 1 Dow's Rep. 1. 2 Jacob and Walk. 248. 3 Merrivale, 412, 419. 7 Serg. and Rawle, 460, 3 Dessaußure, 557.

differences of opinion among their ancient writers, provided the society had for a long time before this fund was established, promulgated as a body, their religious doctrines, and had settled down in harmony under them. It is a body of Friends, with its settled and known characteristics, at that time, which is contemplated in the trust.

The society of Friends, or Quakers, as they were called by their opponents, had its origin in England, about the middle of the seventeenth century; a time much distinguished for religious inquiry, in many parts of Europe. It was composed of persons who could not conscientiously agree with the existing sects, in their doctrines, modes of worship, or practices, and who found themselves drawn together by a unity of faith and feeling. They called themselves christians and protestants, but appear to have required from those seeking to become united with them, no formal profession of faith, as a test of principle to qualify them for admission; looking at their works as evidence of their christian faith, and their practice, and support of their peculiar testimonies, as evidence of their Quakerism. As they increased in numbers, and attracted the attention of the civil authorities, their principles became the subject of inquiry, and of misrepresentation, by reason of which, they were exposed to reproach and persecution, and it became necessary for them to come out and avow their leading doctrines to the world. This was done by their leaders and principal men, professing to act in behalf of the society on several occasions. George Fox, who is generally regarded as the founder of the sect, travelling in the island of Barbadoes, being assailed with these misrepresentations, and especially with this, that they denied God, Christ Jesus, and the Scriptures of truth; "with some other Friends, drew up a paper to go forth in the name of the people called Quakers, for the clearing of truth and Friends from those false reports." It was addressed to the governor of Barbadoes, with his council and assembly. In this paper, the belief of Friends in God, the divinity and atonement of Jesus Christ, and the inspiration of the Scriptures, is most fully and explicitly avowed. (vol. 2. Fox's Jour. 145, 138, 316, 338, 367. vol. 1. *Ib.* 4, 56, 57.) Elias Hicks intimates that George Fox, for prudential reasons, disguised his real sentiments. (vol. 1. Evid. 116. vol. 2. *Ib.* 417.) But this ill agrees with the history of Fox, and I suspect with the belief of Friends, as to his real

character. Sewell has given his character in this respect, as drawn by a contemporary, in these words: "He was indeed, a heavenly minded man, zealous for the name of the Lord, and preferred the honour of God before all things. He was valiant for the truth, bold in asserting it, patient in suffering for it, unwearied in labouring in it, steady in his testimony to it, immoveable as a rock." (vol. 2. *Sewell's Hist.* 464.)

In 1689, the British parliament passed an act for exempting protestant dissenters from certain penalties, by which the Quakers had suffered for many years. To obtain the benefit of this exemption, they subscribed, among other articles, the following: "I, A. B. profess faith in in God, the Father, and in Jesus Christ, his eternal son, the true God, and in the Holy Spirit, one God, blessed forevermore; and do acknowledge the Holy Scriptures of the Old and New Testament, to be by divine inspiration." The historian adds, "we now see the religion of the Quakers acknowledged and tolerated by an act of parliament." (vol. 2. *Sewell*, 447.)

In 1693, the doctrines of the society being misrepresented by George Keith and others, "they found themselves obliged to put forth their faith anew in print, which they had often before asserted, both in words and writing, thereby to manifest that their belief was really orthodox, and agreeable with the Holy Scriptures. (vol. 2. *Sewell*, 471.) And being charged with some socinian notions, a short confession of faith, signed by one and thirty persons, of which George Whitehead was one, was, in December following, presented to the parliament. (2 *Sewell*, 483, 499. vol. 1. Evid. 297. 3 *Gough's Hist* 386.) In these public declarations, we find these enumerated doctrines recognized and avowed. At that time, and afterwards, the society of Friends in this country, acknowledged the London yearly meeting as their head, and appeals were taken from their meetings in this country, and decided there. (vol. 1. Evid. 95. 1 *Proud's Hist. Penn.* 369.)

Of their early writers, none seems to have been held in higher estimation than Robert Barclay. In his "Apology"* purporting to be an explanation and vindication of the principles and doctrines of the people called Quakers—

* See ninth edition, published at Philadelphia, in 1775, pages 86, 139, 141, 185, 203, 204, 211, 226, 572, 573, 574. Also in his "Anarchy of the Ranters," pages, 1, 2, 3, 29, 30.

these principles are distinctly exhibited as parts of their faith.

He also published a catechism and confession of faith, which purport to contain "a true and faithful account of the principles and doctrines, which are most surely believed by the churches of Christ, in Great Britain and Ireland, who are reproachfully called by the name of Quakers." In these, the doctrines above mentioned, are most fully and explicitly taught and professed.†

It is in evidence, that Barclay's Apology, and his Catechism, and Confession of Faith, purporting as aforesaid, have been published and circulated by the Philadelphia yearly meeting, by the use of its own funds, and as their minutes express, "for the service of truth," as early as the year 1701, and on several occasions since. (vol. 1. Evid. 76, 297.)

There is much other evidence laid before us, by documents and witnesses, confirming that which I have thus briefly noticed. But I shall pass it over, merely referring however, to the letters from Elias Hicks to Phebe Willis and Thomas Willis, written in 1818, in which he distinctly intimates that the society's belief of the Scriptures, and of the divinity of Christ, which he had been taught from his cradle, whatever was *his* belief at that time, was fully in accordance with the pretensions of the "Orthodox" party. (vol. 2. Evid. 419, 420, 421.)

I think it sufficiently established, that these doctrines have been avowedly and generally held by the society. And, indeed, they have treated the Scriptures with a degree of reverence, uncommon, even among christians. Feeling it presumptuous to speculate upon what is obscure, they have, in *doctrinal matters*, adopted its explicit language, but rejected the ingenious deductions of men; they have been unwilling to be wise above what is written. And in matters of *practice*, they have endeavoured to apply its precepts literally; and this is the foundation of their peculiar testimonies.

But are these doctrines *essential*? There is strong evidence of this, in the very nature of the doctrines themselves. When men form themselves into associations for the worship of God, some correspondence of views, as to the nature and attributes of the being who is the object of worship, is necessary. The difference between the pagan,

† See pages 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 104, 106, 107, 108, 111, 134.

the mahometan, the christian, and the jew, is radical, and irreconcilable. The two latter worship the same God; but one approaches him through a mediator, whom the other regards as an impostor; and hence, there can be no communion or fellowship between them. Christians have become separated into various sects, differing more or less in their doctrines. In looking at the history of these sects, I am by no means convinced that there was, in the nature of things, any necessity for all the divisions which have taken place. Many of the controversies in the church, have doubtless arisen from minute and subtile distinctions in doctrine, which have been maintained, not only with much ingenuity, but with much obstinacy and pride; and which, by this mixture of human frailty, have been the cause of angry, and often bloody dissensions. And whenever the civil government, or the prevailing party, in a religious society, have formed creeds, and required professions of faith, descending to these minute points, it has, necessarily, caused the separation of those, or at least the honest part of them, who could not believe up to the precise line of orthodoxy. Hence, no doubt, many separations have taken place in churches, upon points of doctrine, which would never have disturbed the harmony of the association, had not public professions of faith been required, descending into minute and non-essential particulars. In these days many christians find themselves able to unite in worship with those of different denominations, and to forget the line of separation between them. But, although unnecessary divisions have taken place, it by no means follows, that there are not some points of faith, which must be agreed in, in order that a religious society may harmonize in their public worship and private intercourse, so as to experience the benefits of associating together. Of this description, is the belief in the atonement and divine nature of Jesus Christ. He, who considers Him to be divine; who addresses himself to Him, as the Mediator, the Way, the Creator, and Redeemer; who has power to hear, and to answer; to make and to perform his promises, cannot worship with him, who regards Him as destitute of this nature, and these divine attributes. Nor can the latter unite in a worship which he conceives to be idolatrous.

And with respect to the inspiration of the Scriptures. The belief in the divine nature and atonement of Jesus Christ, and indeed, of the christian religion itself, is inti-

mately connected with that of the divine authority of the sacred writings. "Great are the mysteries of Godliness." And of all the truths declared in Holy Writ, none are more mysterious than the nature, history, and offices of Jesus Christ. The mind that contemplates these truths as based on mere human testimony, must range in doubt and perplexity, or take refuge in infidelity. But if they are regarded as the truth of God, the pride of human reason is humbled before them. It afterwards exerts its powers to understand, and to apply, but not to overthrow them. Faith may repose in confidence upon them, and produce its fruits in a holy life. To a people like the Friends, who pay so much attention to the light within, but who at the same time, acknowledge the deceitfulness of the human heart, and the imperfection of human reason; when they once fix their belief on the testimonies of Scripture, as dictated by the spirit of truth, they necessarily become precious; as the landmarks, setting bounds to principle and to action; as the charts, by which they may navigate the ocean of life in safety; as the tests, by which they may examine themselves, their principles, and feelings, and learn *what spirit they are of*. For, in the language of Barclay, "they are certain, that whatsoever any do, pretending to the spirit, which is contrary to the Scriptures, should be accounted and reckoned a delusion of the devil." Hence, their book of discipline earnestly exerts all parents and heads of families, to cause the diligent reading of the Scriptures by their children; (Disc. 100.) to instruct them in the doctrines and precepts there taught, as well as in the belief of the inward manifestation and operation of the Holy Spirit upon their own minds; and to prevent their children reading books or papers, tending to create the least doubt of the authenticity of the Holy Scriptures, or of those saving truths declared in them. (Disc. 12.) And hence, by the same discipline, ministers are liable to be dealt with, who shall misapply, or draw unsound inferences or conclusions from the text. (Ib. 62.) And a periodical inquiry is directed to be made whether their ministers are sound in word and doctrine. (Ib. 95.)

I have before said, that their great regard for the Scriptures, and desire to comply with them literally, is the foundation of their peculiar testimonies. *These* are acknowledged by Decow and his party, to be essential, and a departure from them, a ground of disownment. (vol. 1. Evid.

43, 385.) Does not a strong argument result from this, that they regard the Scriptures as divine truth, and that this belief is essential? When their writers would defend these testimonies, they do not refer us to the light within. They do not say that this has taught them that oaths are unlawful, &c. But they point to passages of Scripture, as authority, and *undoubted* authority, on these subjects. But why are they authority? Because they are the truth of man? No. Friends spurn at the dictation of their equally fallible fellow man. But because they are the truth of God. Or, in the language of Fox, "We call the Holy Scriptures, as Christ, the apostles, and holy men of God called them, the words of God." (vol. 2. Fox's Jour. 147. vol. 1. Evid. 78.) Can it be that the rejection of, or nonconformity to, particular passages, is ground of disownment, and yet that their members are at liberty to reject the whole? What would this be but to permit their fellow man to select and garble as they please, and dictate what *should be believed*, and what *might be* disbelieved?

These testimonies regard the *practices* of the members. Robert Barclay did not consider deviations from them, as the *sole* causes of disownment. He says, "we being gathered together into the belief of certain principles and doctrines; those principles and doctrines, and the practices necessarily depending upon them, are, as it were, the *terms* that have drawn us together, and the *bond* by which we become centered into one body and fellowship, and distinguished from others. Now, if any one, or more, so engaged with us, should arise to teach any other doctrine or doctrines, contrary to these which were the ground of our being one, who can deny, but the body hath power, in such a case, to declare this is not according to the truth which we profess; and therefore we pronounce such and such doctrines to be wrong, with which we cannot have unity, nor yet any more spiritual fellowship with those that hold them? And so cut themselves off from being members, by dissolving the very bond by which they were linked to the body."* And after proving the soundness of these views from Scripture and reason, he concludes as follows: "So that from all that is above mentioned, we do safely conclude, that where a people are gathered together into the belief of the principles and doctrines of the gospel of Christ, if any of that people shall go from those principles, and

* Anarchy of the Ranters, pages 54, 55, 56, 57, 58, 59.

assert things false and contrary to what they have already received ; such as stand and abide firm in the faith, have power by the spirit of God, after they have used christian endeavours to convince and reclaim them, upon their obstinacy, to separate such, and to exclude them from their spiritual fellowship and communion. For otherwise, if these be denied, farewell to all christianity, or to the maintaining of any sound doctrine in the church of Christ." And, surely, these remarks must be applicable to doctrines as *radical* as those above stated.

In 1722, the yearly meeting of Philadelphia issued a testimony, accompanying Barclay's Catechism and Confession of Faith, which they styled " The ancient testimony of the people called Quakers, revived." In which, after a long enumeration of evil practices which the apostles testified against, and through which some fell away, they add, " and some others, who were then gathered into the belief of the *principles and doctrines* of the gospel of Christ, fell from *those principles*, as some have done in our day ; in which cases, such as stood firm in the faith, had power by the spirit of God, after christian endeavours to convince and reclaim these backsliders, to exclude them from our spiritual fellowship and communion, as also the privileges they had as fellow-members ; which power we know by *good experience*, continues with us, in carrying on the discipline of the church in the spirit of meekness." (vol. 2. Evid. 11.) And in answer to what was said in argument, as to the *extent* of the discipline appearing in its introductory paragraph, I would observe that this testimony was issued soon after that introduction commences, by referring to it, and may be considered as in a manner explanatory of it. But the discipline itself is not silent on this subject. Its object is declared to be, " that all may be preserved in *unity of faith and practice*." Now, what is unity of faith ? Does it not require unity of *interpretation* ; unity of *views*, of the meaning of texts of Scripture, involving important doctrines ? It does not require submission to the dictation of others. But it does require an accommodation of opinion to a common standard, in order that they may be of *one* faith. This need not extend to subordinate matters ; but liberal as the society has always been in this respect, it has spread before its members the Catechism and Confession of Faith and Apology of Barclay, as guides to opinion, and it will not suffer *even the*

less essential doctrines there promulgated, to be questioned, if it be done in a contentious or obstinate spirit, without subjecting the offender to discipline. This is plainly indicated in the *testimony* above referred to. (Disc. 12.) And with respect to the more important doctrines now in dispute, the discipline expressly says, "Should any deny the *divinity of our Lord and Saviour Jesus Christ, the immediate revelation of the Holy Spirit, or the authenticity of the Scriptures*; and it is manifest *they are not one in faith with us*, the monthly meeting where the party belongs, having extended due care for the help and benefit of the individual without effect, ought to declare the same, and issue their testimony accordingly." (Disc. 23. vol. 1. Evid. 385.)

In addition to all this, several respectable witnesses testify that the denial of these doctrines has always been held to be ground of disownment, and they adduce many instances of actual disownment for these causes. (vol. 1. Evid. 60. 99. 108. 171. 306.)

Upon reviewing the testimony, I am satisfied that the society of Friends regard these doctrines as *essential*, and that they have the power, by their discipline, to disown those who openly call them in question.

But do the Arch street meeting, and its subordinate meetings, hold to these doctrines? It is so alleged; and it is not denied. The denial, if it be one at all, is that these are established doctrines of the society of Friends. The controversies between the parties, so far as they were doctrinal, show that the party called "Orthodox," insisted on these doctrines. The offensive extracts of the meeting for sufferings, declares them. (vol. 1. Evid. 217. vol. 2. Ib. 414.) And these have been published by the yearly meeting of that party, in 1828. And there is much testimony by witnesses, that the Arch street meeting adheres to them. (vol. 1. Evid. 60, 99.) and none to the contrary.

So that it appears to me, that Hendrickson has sufficiently established that the preparative meeting at Chesterfield, which he represents, may, so far as respects doctrine, justly claim to be of the society of Friends.

But it is insisted, that the other party stands on equal ground in this respect; that they are now, or certainly have been, in unity with that society; a society in which no public declaration of faith is necessary; and that hence, independent of any proof they may have offered, they are to be presumed to be sound in the faith. And that any

inquiry into their doctrines, further than as they have publicly declared them, is inquisitorial, and an invasion of their rights of conscience.

If a fact be necessary to be ascertained by this court, for the purpose of settling a question of property, it is its duty to ascertain it. And this must be done by such evidence as the nature of the case admits of.*

I have already stated, that the answer of Decow appeared to me indirectly to deny that the faith of Friends embraces the enumerated doctrines insisted on by Hendrickson, and to claim freedom of opinion on those points. I feel more assured that this is the true meaning of the answer, from the course taken in the cross-examination of the witnesses, in which an evident effort appears, to show a want of uniformity among ancient writers of the society, when treating on these subjects; and also, from the grounds taken by the counsel in the argument of this cause. It was here most explicitly, and I may add, most ingeniously and eloquently insisted, not only that these doctrines *do not* belong to the faith of Friends, but that they *cannot*; because they must interfere with another acknowledged fundamental principle of the society—the guidance of the light within. Now if it be established, that these doctrines are part of the religious faith of Friends, can it be necessary, under these pleadings, to *prove* that Decow's party do not hold to the faith of Friends? Decow says, "my party, or preparative meeting, hold the faith of Friends, but these doctrines are no part of that faith; therefore we do not, as Friends, hold to these doctrines." But Friends do hold these doctrines: Decow's party does not; therefore they are not *one*, with Friends, in religious doctrine. And it will not materially vary the argument, that they are *at liberty* to hold them, or not, as the light within shall direct. It is *belief* which gives character to a sect, and right of membership to an individual. *Liberty* has the same practical effect as *unbelief*, when applied to an essential doctrine of a religious society. An individual cannot avail himself of his faith in any doctrine which he is at liberty to believe or not. Were it otherwise, we might all be members of any religious society whatever.

But as I may have mistaken the meaning of Decow's answer, which is certainly not very explicit in this parti-

* 3 Merrivale, 411, 413, 417. 3 Dessausure, 557.

cular, I will next turn to the evidence, and discover, if I can, what is the fair result of the examination of that.

Decow offers no testimony respecting the belief of his party in the particular doctrines in question. His witnesses refuse to answer on these points,* and his party protest against all creeds, or public declarations of faith, as an abridgment of christian liberty. Having no such public declaration to resort to, we must ascertain the truth from other sources, so far as it is necessary to be ascertained.

Several public addresses were issued by the party called "Hicksite," about the time of the separation, setting forth their reasons for it. In that of April twenty-first, 1827, it is declared that, "the unity of this body is interrupted, that a division exists among us, developing in its progress, *views which appear incompatible* with each other, and feelings averse to a reconciliation. *Doctrines* held by one part of the society, and which we believe to be *sound* and edifying, are pronounced by the other part to be *unsound* and spurious." A prominent complaint, in these papers, is, that Friends travelling in the ministry, had been publicly opposed in their meetings for worship, and laboured with contrary to the discipline. Upon looking into the testimony, we find that the prominent individual who furnished occasion for these complaints, is Elias Hicks; and that the interruptions and treatment of him, deemed exceptionable, had their origin in the doctrines which he preached. (vol. 1. Evid. 308, 474, 478.) Can it be denied, then, that differences in doctrine existed, and differences of that serious nature calculated to destroy the unity of the society, and which had their full share in producing the separation which took place.

Decow has introduced several witnesses, who testify, and no doubt conscientiously, that they believe they hold the ancient faith of Friends, but they refuse to tell us what this faith is, in reference to these enumerated doctrines. We cannot give much weight to *opinion*, where we should have *facts*. The belief should refer to specific doctrines, that the court may judge as well as the witnesses, whether it was the ancient faith or not. The court, in that case, would have an opportunity of estimating the accuracy of the knowledge upon which the belief is founded.

How stands the case, then, upon the proofs? A fund was created for the education of the poor children of a certain preparative meeting of the religious society of

* 1 vol. Evid. pages 387, 381, 406, 475. 2 vol. Ibid. pages 13, 90, 206.

Friends. That body has lately become separated. *Its unity is broken; the views of its members are incompatible; and doctrines held by one party to be sound, are pronounced by the other party to be unsound.* And two distinct meetings exist at this time, and each claims the guardianship and use of this fund. For the safety of the debtor, these parties have been directed to interplead, and to show their respective pretensions to be *a preparative meeting of Friends*. One of them sets out certain doctrines as characteristic of the society, and that they adhere to them, and that the other party does not. They go on and prove their case, so far as respects themselves. The other party allege that they hold the faith of Friends? but instead of proving it, they call upon their adversaries to prove the contrary. In my opinion it was incumbent upon each of the parties to make out their case, if they would stand upon equal terms, on this question of doctrine. And especially upon this preparative meeting, connected as it is, with a yearly meeting, which, in point of form at least, is not the yearly meeting that was in existence at the creation of the fund; and which has furnished *prima facie* evidence that it has withdrawn, or separated from that meeting, in consequence of disputes in some measure doctrinal. The court will not *force* either party in this cause to declare or prove their religious doctrines. But if doctrines be important, the party which would avail themselves of their doctrines, must prove them. They are peculiarly within their knowledge, and although they may have the right to withhold them, yet if they do, they cannot expect success in their cause. The money must be awarded to that party which supports, by proper proof, its pretensions to it.

Under this view of the case, I deem it unnecessary to attempt any further investigation of the doctrines of the party called "Hicksite." And if ascertained, I certainly would not inquire, as an officer of this court, whether they are right or wrong. It is enough, that *it is not made to appear* that they correspond with the religious faith of the society of Friends.

I would merely add, that if it be true, that the "Orthodox" party believe in the doctrines above mentioned, and the Hicksite" party consider that every member has a right to his own belief on those subjects, they well might say that their differences were destructive of their *unity*. If their members and ministers exercise perfect freedom of thought and speech on these points, their temples for

worship, and it is to be feared, their own hearts, would soon be deserted by the place-loving spirit of the Master. There is an essential incompatibility in adverse views, with regard to these doctrines. The divinity of Christ, and the authenticity of the Scriptures, cannot be debated in a worshipping assembly, without defeating the proper purposes of meeting together.

And upon this supposition too, the *propriety*, as well as *legality*, of this court's noticing the doctrines of the preparative meeting, which is to superintend the expenditure of this fund, is too manifest to admit of doubt. We have already seen, by reference to the discipline of this society, with what earnestness they endeavoured to educate their children in the knowledge and belief of the Scriptures; and whoever looks into that discipline, cannot but discover their anxiety to train them up in their own peculiar views of the christian religion. To effect these purposes, their yearly meeting has directed their attention to the subject of *schools*. "The education of our youth," says the discipline, "in piety and virtue, and giving them useful learning under the tuition of religious, prudent persons, having for many years engaged the solid attention of this meeting, and advices thereon having been from time to time issued to the several subordinate meetings, it is renewedly desired, that quarterly, monthly and preparative meetings may be excited to proper exertions for the institution and support of schools; for want of which, it has been observed, that children have been committed to the care of transient persons of doubtful character, and sometimes of very corrupt minds." "It is, therefore, indispensably incumbent on us, to guard them against this danger, and procure such tutors, *of our own religious persuasion*, as are not only capable of instructing them in useful learning, to fit them for the business of this life, but to train them in the knowledge of their duty to God, and one towards another. Under this discipline, and by the exertions of superior meetings, (vol. 2. Evid. 345, 346, 436, 437.) as well as of the members of the Chesterfield preparative meeting, this school at Crosswicks was established, and this fund raised for its support. It thus appears, that the fund was intended to promote, not merely the secular knowledge of the pupils, but their growth in the religious principles deemed fundamental by this people; or at least, to prevent, through the instruction of teachers of other religious principles, or wholly without principle, the alienation of the minds of

their children from the faith of their fathers. Could these meetings, and these contributors have contemplated that this fund should fall into the hands of men of opposite opinions, or of no opinions? Could these men, who acknowledge the obligation of this discipline, enjoining, as it does, upon parents and heads of families "to instruct their children in the doctrines and precepts of the christian religion, as contained in the Scriptures," and, "to prevent their children from having or reading books and papers tending to prejudice the profession of the christian religion, or to create the least doubt concerning the authenticity of the holy Scriptures, or of those saving truths declared in them, lest their infant and feeble minds should be poisoned thereby." I say, is it possible that such men could have expected that their children should be taught by Elias Hicks, that the Scriptures "have been the cause of fourfold more harm than good to christendom since the apostles' days." And that "to suppose a written rule *necessary*, or *much useful*, is to impeach the divine character?" Or, that they should be taught by him, or by any one else, that each individual must interpret them for himself, entirely untrammelled by the opinions of man; and that the dictates of the light within are of paramount authority to Scripture, even when opposing its precepts? Surely, this would be a breach of trust, and a perversion of the fund which the arm of this court not only has, but ought to have power to prevent.

I would not be understood, to impute the doctrines of Elias Hicks to that party which unwillingly bears his name. Nor do I mean to intimate, that *they* would abuse this trust. But I have endeavoured to show that doctrines may justly have an influence on the decision of the question now before us. And without coming to any conclusion with respect to *their* doctrines, I am of opinion, that this fund should be awarded to that meeting which has shown, at least to my satisfaction, that they agree in doctrine with the society of Friends, as it existed at the origin of this trust.

I do, therefore, respectfully recommend to His Excellency the Chancellor, to decree upon this bill of interpleader, that the principal and interest due on the said bond, of right belong, and are payable to the said Joseph Hendrickson; and that he be permitted to proceed on his original bill of complaint, or otherwise, according to the rules and practice of the court of chancery.

GEORGE K. DRAKE.

THE

PURCHASE LAW SUIT.

THE following observations and statements will explain the origin of the suit, in which the annexed opinion of the Supreme Court of the State of New York has been pronounced.

The meetings of the Society of Friends for the management of its internal affairs, consist of four grades, between which there is a regular connexion and subordination. First, Preparative Meetings, which are the lowest in authority, and subordinate and accountable to the monthly meetings. Second, Monthly Meetings, in which the executive power is principally lodged. These are generally composed of several preparative meetings, and are subordinate and accountable to the Quarterly Meetings, which mostly consist of a number of monthly meetings, and are responsible to the Yearly Meeting, which is the supreme head. Preparative and monthly meetings have the care of providing for those members who may be in indigent circumstances; and it frequently happens that funds are raised either by donations or legacies, and placed under their care, the income of which is applied to the maintenance of the poor, the education of their children, and other purposes of the Society.

The preparative meeting of Friends at Purchase, in the county of Westchester, state of New York, held and managed such a fund, amounting in lands and money to about three thousand dollars, the income of which was to be appropriated to schooling the children of members of that preparative meeting. The fund was raised by the voluntary contributions of the members, and by legacies, and the preparative meeting appointed one of its members as treasurer.*

* This meeting is subordinate and accountable to Purchase monthly and quarterly meeting.

James Field, treasurer of this fund, and plaintiff in the suit, loaned to Charles Field, the defendant, on his note, payable to him or his successor, the sum of five hundred dollars, part of the fund, for which he was to pay interest. Subsequently to this, the unhappy controversy introduced by Elias Hicks and his doctrines, produced a separation in the Purchase preparative and monthly meeting. The plaintiff went with the Hicksite party, and the defendant remained with the Friends. There were now two bodies, each claiming to be the Purchase preparative meeting. The Hicksites continued James Field as their treasurer, and in the First month, (January,) 1830, the preparative meeting of Friends released James Field, and appointed Thomas Carpenter treasurer of the fund on its behalf.

Charles Field, the defendant, declined recognizing James Field as treasurer, and paid the note to Thomas Carpenter, the person appointed by Friends.

The Hicksites had possession of ten meeting houses out of the eleven in Westchester county, and of the whole of this school fund except the five hundred dollars in question. On finding that Charles Field declined making any further payments to James Field as treasurer of the fund, a suit at law was commenced for the recovery of the money. The cause came on for trial before Judge Emott, at a circuit court of Oyer and Terminer, held at Bedford, Westchester county, in the Ninth month, (September,) 1830.

The counsel for the prosecution took the ground that the case was to be viewed simply as a money transaction between two individuals, without reference to the character of the trust, or the connexion of the treasurer with the society of Friends. On the other hand, it was contended by the counsel for Friends, that the question whether James Field should recover or not, must depend upon the fact of his being the legal treasurer of the fund, this again must depend on the character of the meeting that appointed him. There were before the court, two bodies of people, each claiming to be the Purchase preparative meeting of Friends, and also two persons, each assuming to be treasurer of the fund under the authority of the respective meetings by which they were appointed. James Field having no claim to this money in his own right, but only as the representative of the preparative meeting, for whose use it was held, his right to recover

must depend on the character of the meeting which appointed him. Both the meetings could not be the Purchase preparative meeting of Friends; consequently one must be the genuine and the other a spurious meeting. It was proved that every preparative meeting of Friends must be in connexion with a regularly organized monthly meeting of the Society, and subordinate to it, and subject to its control. That the separation took place in the monthly meeting with which the Purchase preparative meeting was thus connected, in the Sixth month, (June,) 1828. That the monthly meetings of the Society of Friends are always opened by the clerk, who reads a minute to that effect, after which the meeting proceeds to business. That at the monthly meeting above alluded to, Henry Griffin, the clerk duly appointed, was prevented from taking his seat at the clerk's table as usual, by the violent and tumultuous conduct of some of the Hicksite party, who compelled him and those Friends who wished to preserve the order of the meeting, to leave the house, and withdraw to the yard, where he opened the monthly meeting in the usual manner, and proceeded with its business. That this meeting has been continued ever since as a regular monthly meeting of the Society of Friends, in connexion with its proper quarterly and yearly meeting. Hence it was maintained, that as the Purchase preparative meeting which appointed Thomas Carpenter its treasurer, was held in connexion with, and subordinate to, the authority of this monthly meeting, it was the meeting for the use of whose members the trust was created, and he must be considered as the legal treasurer, entitled to the money in controversy. That the Hicksite party remained in the meeting house, after having expelled Friends, not having the clerk, or being in any way organized, had no claim to be the monthly meeting of Friends, and that as the preparative meeting which continued James Field treasurer, was in connexion with this latter body, it took its character from it, and could have no claim to interfere with the fund, as it was not the Purchase preparative meeting for whose benefit the trust was created. It was also proved, that in the meetings of the Society of Friends, it was contrary to settled usage and principles to decide any question by vote, count of numbers, or a reference to majorities, and consequently that no majority of the Hicksite party could render their acts valid, if they proceeded contrary to the

discipline and usages of the Society of Friends, or entertained doctrines adverse to those which it had always held and acknowledged. The counsel for the defendant offered to prove that the Hicksite party had departed from the established doctrines of the Society of Friends, and from its discipline and customs, and therefore could have no claim to the control of the fund in question, which was a trust for the exclusive benefit of the members of that Society.

On the part of the plaintiff it was urged, that the Hicksite party comprehended a large majority of those who had belonged to the preparative and monthly meetings previous to the separation, and consequently that they had a right to control and manage the fund.

Several of the witnesses produced, were members of Purchase preparative meeting, and their evidence was refused by the court, on the ground of their having an interest in the fund in question:—of the number thus rejected, Thomas Carpenter, the treasurer appointed by the Purchase preparative meeting of Friends, was one. The court also refused to hear any testimony respecting the doctrines of the Society of Friends, or those entertained by the Hicksite party. In his charge to the jury, the judge took the naked facts as they were presented in the evidence, stripped of all the collateral circumstances, and charged the jury, that as the Hicksite party included a majority of the members, and as James Field, the plaintiff, was the treasurer at the time the note was given, and still was considered so by the greater portion of the persons then constituting the Purchase preparative meeting, he must recover. The jury, after being out a short time, brought in a verdict accordingly.

The cause was brought before the Supreme Court of the state on a bill of exceptions, for the purpose of obtaining a new trial at the Fifth Month (May) term, 1832, in the city of New York, and was ably argued by David B. Ogden, and Hugh Maxwell, for the defendant, and James Talmage, and William Silliman, for the plaintiff. Justices Nelson and Sutherland sitting, Justice Sutherland being absent from indisposition. The opinion, in which the bench united, was delivered by Judge Nelson, at the October (Tenth Month) term last, in Albany.

OPINION
OF
THE SUPREME COURT
OF THE
STATE OF NEW YORK, &c.

JAMES FIELD *vs.* CHARLES FIELD.

BY THE COURT—NELSON, JUDGE.

THE objections to the recovery on the ground of variance, between the date of the instrument produced, and the one described in the declaration is untenable. There is none in substance or fact. The pleader does not profess to set out the instrument verbatim.

The judge erred in excluding the testimony of Thomas Carpenter, for under no view of the case that we can take, was he directly interested in the event. He had an interest in the fund in common with the other contributors or members of the Purchase preparative meeting, but he was called against that interest, so far as it was immediately involved in the issue then trying. At all events as between the immediate parties to the suit, his interest was in favour of the plaintiff, as the fund, if collected, was for the benefit of the proprietors; and as regarded his position, upon all the facts disclosed on the trial, we think he was indifferent, or at least, his interest was neutralized. It is said he was interested in sustaining the payment of the money to himself as treasurer, by the defendant, but we apprehend it would be difficult to show in what way he could be thus interested. Admitting that he would be, at law or in equity, bound to refund the money to the defendant if he could not sustain his right or title to receive it as treasurer, the result of this suit did not necessarily determine that question, as he was not a party to it, and would not be bound by it. Whether he would be bound to refund the money, would depend upon a suit directly between the parties themselves. A recovery by the plaintiff in this case, would have perhaps an essential bearing

upon that question, but would not control it, and the interest would be too remote and contingent to affect the competency of the witness. But conceding that, upon the recovery by the plaintiff here, the witness was under obligations to refund, how could he be interested? The fund was not his, and whether he paid it to the defendant, or held or disbursed it as treasurer; so far as his own interest was involved, it was indifferent to him. If he was bound to refund, it would be confessedly upon the ground, that he is not the legal treasurer or trustee of the fund, and that the present plaintiff is. And so far as the witness' original and joint interest in the fund is involved, it is the same to him in judgment of law, whether the fund is held or disbursed by himself as treasurer, or by the present plaintiff as treasurer, for we are bound to believe either would perform his duty with fidelity. I am therefore clearly of opinion, the witness was not interested so far as to render him incompetent, on the ground—

1st. As to his position as treasurer holding the fund, he was but a naked trustee, and his own interest would be unaffected, whether he retained the fund, or was obliged to repay it; and further, even supposing it to be affected by the repayment, that event was not a direct and necessary consequence of the recovery in this suit, and was too remote and contingent to exclude him, and.

2d. So far as his joint and fractional interest in the fund was involved in the suit, he was called in favour of it, for the ground upon which the plaintiff claimed the right to recover was as trustee of the fund, for the benefit of the proprietors, and there can be no doubt if he recovers he is bound so to hold it. The decision of this question is not very important in the case, as probably, every material fact which could be proved by this witness was subsequently sworn to by others.

The great and important question involved in the case is, whether payment of the note was established on the trial, and this involves the inquiry as to the legality of the appointment of Thomas Carpenter as treasurer of the Purchase preparative meeting school fund, on the 1st January, 1830. If he was, the issue under the pleadings was established in favour of the defendant, and payment to the treasurer would be a good defence. The material facts upon which this question must depend, and upon which alone we must determine it, are not contested in the case, though the generality of them leave in a measure some of the leading features of it, in a little obscurity. We should have been better satisfied if the case presented a more minute and full account of the origin, purpose, and also the manner of controlling and disposing of the Purchase preparative meeting

school fund, which, at the same time, would necessarily have given us, with more particularity, its connexion with the Purchase preparative meeting of the Friends.

We must take the case, however, as we understand it from the testimony ; which is, that this fund many years ago was raised by voluntary contributions from members of the Purchase preparative meeting of the Friends, residing within its limits, and by legacies. That such fund belongs exclusively to the members of said meeting, and is managed under its direction by a treasurer appointed by them. The fund in 1817 amounted to \$860, besides 150 acres of land left as a legacy from one Clapp. The meetings of the Friends are divided into yearly, quarterly, monthly, and preparative. No quarterly meeting is to be set up or discontinued but by a yearly meeting ; no monthly but by a quarterly meeting, and no preparative but by a monthly, with the approbation of the quarterly meeting, and these meetings are subordinate and accountable in the manner just stated. The Purchase preparative meeting of the Friends, in this case, was set up as early as 1790, and has been regularly continued since, down to the separation in April, 1828, and since that time each division has held separate meetings. The plaintiff was their treasurer at the time of the separation. Thomas Carpenter has been since appointed by the division called the orthodox Friends. It further appears that according to the rules and usage of the Friends at their meetings, no meeting is considered organised until the clerk of the meeting takes his place at the table, makes a minute of the meeting, and reads it,—after this it proceeds to business:

The monthly meeting, after the separation in New York, was in June, 1828, at which H. Griffin attended, and was forcibly prevented acting as clerk, by persons who had surrounded the table. The clerk withdrew with a number of the Friends, and assembled in the yard of the house, where they met, and there opened the meeting according to the usual course of business. It was this monthly meeting that appointed the Purchase preparative meeting at which Thomas Carpenter was appointed treasurer, 1st January, 1830. The Purchase preparative meeting at which the appointment was made was held, and the treasurer appointed, according to the rules and discipline of the Society, as known and acted upon for many years.

It was offered to be proved on the trial, that the Hicksite party had abandoned the religious faith of the Society of Friends, with the view of contending that this section of Friends, who continued the plaintiff as a treasurer of the Purchase preparative meeting, had forfeited their character as such, and all the rights and privileges belonging to it. We think the

judge was right in rejecting this proof. In a court of law we can look only to the legal rights of the parties to control the fund in question, and they must depend upon the constitution and principles of the association of the Friends and modes of proceeding, as the Purchase preparative meeting confessedly have the exclusive management and direction of it. So long as the forms and modes of proceeding by the association, under whose direction the original contributors placed the fund, are strictly complied with in its management and control, a court of law are incompetent to interfere. If there has been, or is about to be, a diversion of the fund from the original purpose and object of it, under the form of legal and constitutional proceedings by the association, or otherwise, it belongs peculiarly to the jurisdiction of a court of equity to interpose and correct or prevent the error. Thus, if the object of the original contributors of this fund was the instruction and education of their children in the faith and doctrine of the Society of Friends, as understood and believed at the time it was placed under the direction of one of their associations or meetings, it is quite clear, both on principle and authority, that such objects should be strictly observed by those who have the management of it, and an ample remedy exists against any perversion of them. In such case, the question is not, which faith or doctrine is the soundest or most orthodox? This is not the object of the inquiry; but for what object or purpose was the fund originally established by the founders of it? The court proceeds to enforce the observance and execution of ascertained trusts in which rights of property are concerned, not the peculiar doctrines or faith of either party, though their existence and the nature of them, may be incidentally involved in the course of proceeding. This part of the case is very fully discussed by Lord Eldon in the case of the Attorney General *vs.* Pearson, 3 Merivale Reports, 352, and principles applicable to it are there clearly stated.

If we look at the constitution and modes of proceeding of the monthly and preparative meetings of the Friends, as detailed by the witnesses on both sides in the case, I cannot entertain a doubt that Thomas Carpenter was legally appointed the successor of the plaintiff, in the office of treasurer of the Purchase preparative meeting, on the 1st of January, 1830. It is said that the monthly meeting, in June, 1828, under which the Purchase preparative meeting was held, was not the legitimate one, and that the latter, according to the system of the meetings of the Friends, was therefore held without authority. The fact is otherwise, if we regard the only account we have of the rules and practice of their proceedings. H. Griffin was the

clerk of that meeting. This office is the most important one belonging to it. He decides all questions that arise, after hearing the discussions and opinions of the members, and in the language of the witnesses, according to the "solid sense" of the meeting as understood by him, without vote, or regard to numbers. This may be a singular mode of proceeding, and of questionable merit, but the fact is undisputed, and we are not to disregard it. This officer, also, has a right to open and organize the meeting, according to undisputed evidence. He did open the monthly meeting at the time and place appointed according to the custom, and under, and in pursuance of, this authority, was held the Purchase preparative meeting, at which T. Carpenter was regularly appointed.

It is true, by the turbulence of some of the members, he was prevented from taking his seat at the table in the room prepared for the meeting, and was compelled to hold it in an adjacent place, but this did not deprive him of his office, or prevent the discharge of his duty, nor the orderly organization of the meeting : much less did it legalize the tumultuous assemblage which he left, who were without the only officers that, according to their ancient and accustomed proceedings, could organize them or dispose of their business.

The question is not whether the meeting, in the absence of the clerk, or of his incompetency to act for any other cause, had not the power to appoint one in his place. There can be no doubt it would have that power from necessity, and to preserve it from dissolution. But can they by mere force and caprice drive away this officer, whose term had not expired, in violation of all the forms of their proceedings and principles of their society. It is said that a majority of the meeting concurred in this act, and the judge at the circuit, supported its legality, upon this ground. We cannot assent to this position. In order to maintain it, the plaintiff must show that the monthly meetings of the Friends were governed upon the principle that a majority should control. Even were we to assume, in the absence of any proof on the subject, that this popular principle was applicable to them, we are not at liberty to do so, as the contrary expressly appears. In no instance do the opinions of a majority of the members control their proceedings, according to long established discipline and usage ; and other modes of deciding all questions which arise, are universally practised.

Besides, even the majority principle was not applied in ejecting the clerk in this instance. No vote was taken. None of the usages and principles of the meeting were observed. No organization of it had taken place. The act was done by force of a disorderly and promiscuous assemblage of Friends, against

established usage and acknowledged rules of proceeding, and which numbers cannot justify or legalize. Was the meeting to be broken up by this proceeding? We think not. This would be virtually giving countenance and effect to acts of tumult and violence, over order and law. The clerk and those members of the meeting who desired peaceably to assemble, and transact its business according to established rules and usage, were right in withdrawing and organizing for that purpose. Could there be a doubt of the propriety or legality of this course, if the organization of the meeting at the place appointed had been prevented by an assemblage of persons other than the Friends? And what difference in good sense, or in judgment of law, can there be whether the act of force and lawlessness was committed by Friends or strangers? In this respect one had as much right as the other, or to speak more accurately, neither could claim any right or authority thus to act or interfere.

But it is said that a majority of the members of the monthly meeting did not attend at the place where the clerk opened the meeting. Neither does it appear that a majority attended at the place where the Friends first assembled, and so far as this objection goes, it is equally applicable to both the meetings, and if sound, neither meeting was legitimate. The true answer however to the objection, if applicable at all to meetings of Friends, as they do not decide questions by vote, is, that the appearance of a majority of the members of the monthly meeting is not essential, legally to constitute it. The rule of the common law is, where a society or corporation is composed of an indefinite number of persons, a majority of those who appear at a regular meeting of the same, constitute a body competent to transact business. *Rex vs. Mayor of Portsmouth*, Cowp. 240. *Rex vs. Bellinger*, 4 F. R. 822. 3 Ep. Wilcox, 7. Cown. 400—10. (Note.) There is nothing in the case to show that any particular or specified number of the Friends are necessary to constitute a regular monthly meeting, and the rule of the common law therefore applies.

I have not deemed it important to examine at large the objection to the recovery, on the ground that the defendant is a partner in the fund, and that no suit at law can be sustained against him, and that as the Purchase preparative meeting is not a corporate body, the suit should be in the names of all the parties interested. I consider this objection wholly unfounded. Though the defendant has a right to participate in the benefits derived from the use of the fund, he has no right or claim to the control of it, except according to the usage and custom of the Purchase preparative meeting of the Friends, under whom the fund was placed, as a member of that meeting. It is this meeting that

has by the consent of the owners of the fund, of which the defendant is one, the exclusive management of it. They have placed it in the hands of the treasurer, who has the immediate control of it. He loaned it to the defendant, who engaged under hand and seal to pay it to him, (the then treasurer,) or his successor in office. So far as the rights of the parties are concerned, upon the evidence in the case in connexion with the fund, the defendant is to be viewed in the light of a stranger to it. He has no right to possess himself of it, or control it, any more than a stranger, and cannot in this respect be deemed a partner. This view is also applicable to every other individual member of the Purchase preparative meeting.

New trial granted. Costs to abide the event.





411-42-X

UCSB LIBRARY

X-64444

UC SOUTHERN REGIONAL LIBRARY FACILITY



A 000 616 936 1

